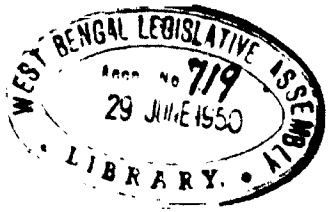
THE WEST BENGAL

Vol. XLIII—No. 1



Council Proceedings

Official Report

Bengal Legislative Council

Forty-third Session, 1934

8th to 10th and 22nd to 24th January, 1934.

Superintendent, Government Printing
Bengal Government Press, Alipore, Bengal
1934

Published by the Superintendent, Government Printing
Bengal Government Press, Alipore, Bengal

Agents in India.

Messrs. S. K. Lahiri & Co., Printers and Booksellers, College Street, Calcutta.

Messrs. Thacker, Spink & Co., Calcutta.

Customers in the United Kingdom and the Continent of Europe
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GOVERNMENT OF BENGAL.

GOVERNOR OF BENGAL.

His Excellency Colonel the Right Hon'ble Sir JOHN ANDERSON, P.C., G.C.B., G.C.I.E.

MEMBERS OF THE EXECUTIVE COUNCIL.

The Hon'ble Sir PROVASH CHUNDER MITTER, K.C.S.I., C.I.E., in charge of the following portfolios:—

1. Land Revenue.
2. Land Acquisition.
3. Excluded Areas.
4. Jails.
5. Legislative.

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1. Emigration.
2. Immigration.
3. Jurisdiction.
4. Haj Pilgrimage.
5. Forests.
6. Irrigation.

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2. Separate Revenue.
3. Commerce and Industrial subjects.
4. Marine.
5. European Education.

The Hon'ble Mr. R. N. REID, C.I.E., I.C.S., in charge of the following portfolios:—

1. Appointment.
2. Political, excluding Haj Pilgrimage.
3. Police.
4. Ecclesiastical.
5. Regulation of medical and other professional qualifications and standards, subject to legislation by the Indian Legislature.
6. Judicial.
7. Hazaribagh Reformatory School.

MINISTERS.

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur, in charge of the following portfolios:—

1. Agriculture and Industries (excluding Excise).
2. Public Works.

The Hon'ble Mr. KHWAJA NAZIMUDDIN, C.I.E., in charge of the following portfolios:—

1. Education.
2. Registration.

The Hon'ble Sir BIJOY PRASAD SINGH ROY, KT., in charge of the following portfolios:—

1. Local Self-Government.
2. Excise.

PRINCIPAL OFFICERS OF THE BENGAL LEGISLATIVE COUNCIL.

PRESIDENT.

The Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh.

DEPUTY PRESIDENT.

Mr. RAZAUR RAHMAN KHAN, B.L.

Panel of Chairmen for the Forty-third Session.

1. Mr. W. H. THOMPSON.
2. Babu JATINDRA NATH BASU.
3. Khan Bahadur MUHAMMAD ABDUL MOMIN.
4. Mr. NARENDRA KUMAR BASU.

Secretary to the Council—J. W. McKAY, I.S.O.

Assistant Secretary to the Council—Mr. K. ALI AFZAL, Bar-at-Law.

BENGAL LEGISLATIVE COUNCIL

ALPHABETICAL LIST OF MEMBERS.

A

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur. [Dacca City (Muhammadan).]
Ali, Mr. Altaf. [Bogra (Muhammadan).]
Ali, Maulvi Hassan. [Dinajpur (Muhammadan).]
Ali, Maulvi Syed Nausher. [Jessore South (Muhammadan).]
Armstrong, Mr. W. L. [Presidency and Burdwan (European).]
Ashworth, Mr. C. G. [Presidency and Burdwan (European).]

B

Baksh, Maulvi Shaikh Rahim. [Hooghly *cum* Howrah Municipal (Muhammadan).]
Baksh, Maulvi Syed Majid. [Jessore North (Muhammadan).]
Bal, Babu Lalit Kumar. [Bakarganj South (Non-Muhammadan).]
Bal, Rai Sahib Sarat Chandra. [Faridpur South (Non-Muhammadan).]
Ballabh, Rai Bahadur Debendra Nath. [24-Parganas Rural North (Non-Muhammadan).]
Banarji, Rai Bahadur Sailendra Nath. (Expert, Nominated.)
Banerji, Rai Bahadur Keshab Chandra. [Dacca Rural (Non-Muhammadan).]
Banerji, Mr. P. [24-Parganas Rural South (Non-Muhammadan).]
Bannerjee, Babu Jitendralal. [Birbhum (Non-Muhammadan).]
Barma, Rai Sahib Panchanan, M.B.E. [Rangpur West (Non-Muhammadan).]
*Barman, Babu Premhari. [Dinajpur (Non-Muhammadan).]
Basir Uddin, Khan Sahib Maulvi Mohammed. [Rajshahi North (Muhammadan).]
Basu, Babu Jatindra Nath. [Calcutta North (Non-Muhammadan).]
Basu, Mr. Narendra Kumar. [Nadia (Non-Muhammadan).]
Birkmyre, Mr. H. (Bengal Chamber of Commerce.)
Bose, Mr. S. M., Bar.-at-Law. [Calcutta East (Non-Muhammadan).]
Bottomley, Mr. J. M. (Nominated Official.)
Burn, Mr. H. H. (Bengal Chamber of Commerce.)

C

Chatterjee, Mr. B. C., Bar.-at-Law. [Bakarganj North (Non-Muhammadan).]
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman. [Faridpur North (Muhammadan).]

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*Oath taken on the 31st January, 1924.

Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman. (Nominated Non-official.)
Chaudhuri, Dr. Jogendra Chandra. [Bogra *cum* Pabna (Non-Muhammadan).]
Chaudhuri, Babu Kishori Mohan. [Rajshahi (Non-Muhammadan).]
Chaudhuri, Maulvi Syed Osman Haider. [Tippera North (Muhammadan).]
Chowdhury, Maulvi Abdul Ghani, B.L. [Dacca West Rural (Muhammadan).]
Chowdhury, Haji Badi Ahmed. [Chittagong South (Muhammadan).]
Choudhury, Maulvi Nural Absar. [Chittagong North (Muhammadan).]
Cohen, Mr. D. J. (Nominated Non-official.)

D

Dain, Mr. G. R., C.I.E. (Bengal Chamber of Commerce.)
Das, Rai Bahadur Kamini Kumar, M.B.E. [Chittagong (Non-Muhammadan).]
Das, Rai Bahadur Satyendra Kumar. [Dacca City (Non-Muhammadan).]
Dutt, Rai Bahadur Dr. Haridhan. [Calcutta Central (Non-Muhammadan).]

E

Edgley, Mr. N. G. A. (Nominated Official.)
Eusufji, Maulvi Nur Rahman Khan. [Mymensingh South-West (Muhammadan).]

F

Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur. [Minister.] [Tippera South (Muhammadan).]
Fawcus, Mr. L. R. (Nominated Official.)
Fazlullah, Maulvi Muhammad. [Noakhali West (Muhammadan).]
Ferguson, Mr. R. H. [Rajshahi (European).]

G

Ghose, Dr. Amulya Ratan. [Howrah Municipal (Non-Muhammadan).]
Ghose, Rai Bahadur Sasonka Comar, C.I.E. (Dacca University.)
Ghuznavi, the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim, KT., of Dilduar. (Member, Executive Council.)

Gilchrist, Mr. R. N. (Nominated Official.)
Gladding, Mr. D. (Nominated Official.)
Goenka, Rai Bahadur Sir Badridas, KT., C.I.E. (Bengal Marwari Association.)
Goil, Col. D. P., M.B., C.H.B., F.R.C.S. (EDIN.). (Expert, Nominated.)
Guha, Babu Profulla Kumar. [24-Parganas Municipal North (Non-Muhammadan).]
Guha, Mr. P. N. (Nominated Non-official.)
Gupta, Mr. J. N., C.I.E., M.B.E. [Bankura West (Non-Muhammadan).]
Gupta, Rai Bahadur Mahendra Nath. (Expert, Nominated.)

H

Hakim, Maulvi Abdul. [Mymensingh Central (Muhammadan).]
Haque, Khan Bahadur Maulvi Azizul. [Nadia (Muhammadan).]
Hogg, Mr. G. P., C.I.E. (Nominated Official.)
Hooper, Mr. G. G. (Nominated Official.)
Hoque, Kazi Emdadul. [Rangpur East (Muhammadan).]
Hosain, Nawab Musharruf, Khan Bahadur. [Malda *cum* Jalpaiguri (Muhammadan).]
Hossain, Maulvi Muhammad. [Bakarganj North (Muhammadan).]
Huq, Mr. A. K. Fazl-ul. [Bakarganj West (Muhammadan).]
Hussain, Maulvi Latafat. (Nominated Non-official.)

K

Karim, Maulvi Abdul. [Burdwan Division South (Muhammadan).]
Kasem, Maulvi Abul. [Burdwan Division North (Muhammadan).]
Khan, Khan Bahadur Maulvi Muazzam Ali. [Pabna (Muhammadan).]
*Khan, Mr. Razaur Rahman, B.L. [Dacca East Rural (Muhammadan).]
Khan, Maulvi Tamizuddin. [Faridpur South (Muhammadan).]
Kiadersley, Mr. J. B. (Expert, Nominated.)

L

Law, Mr. Surendra Nath. (Bengal National Chamber of Commerce.)
Lockhart, Mr. A. R. E. [Presidency and Burdwan (European).]

M

Maguire, Mr. L. T. (Anglo-Indian.)
Maiti, Mr. R. [Midnapore South (Non-Muhammadan).]

*Deputy President, Bengal Legislative Council.

Martin, Mr. O. M. (Nominated Official.)
Mason, Mr. G. A. (Indian Jute Mills Association.)
McCluskie, Mr. E. T. (Anglo-Indian.)
Miller, Mr. C. C. (Bengal Chamber of Commerce.)
Mitter, the Hon'ble Sir Provash Chunder, K.C.S.I., C.I.E. (Member, Executive Council.)
Mitter, Mr. S. C. (Nominated Official.)
Mittra, Babu Sarat Chandra. [24-Parganas Rural Central (Non-Muhammadan).]
Momin, Khan Bahadur Muhammad Abdul. [Noakhali East (Muhammadan).]
Mookerjee, Mr. Syamaprosad, Bar.-at-Law. (Calcutta University.)
Mukherji, Rai Bahadur Satish Chandra. [Hooghly Rural (Non-Muhammadan).]
Mukhopadhaya, Rai Sahib Sarat Chandra. [Midnapore South-East (Non-Muhammadan).]
Mullick, Mr. Mukunda Behary. (Nominated Non-official.)

N

Nag, Reverend B. A. (Nominated Non-official.)
Nag, Babu Suk Lal. [Khulna (Non-Muhammadan).]
Nandy, Maharaja Sris Chandra, of Kassimbazar. (Bengal National Chamber of Commerce.)
Nazimuddin, the Hon'ble Mr. Khwaja, C.I.E. [Minister.] [Bakarganj South (Muhammadan).]
Nicholl, Mr. C. K. (Indian Tea Association.)
Norton, Mr. H. R. (Calcutta Trades Association.)

P

Paul, Sir Hari Sanker, KT. [Calcutta South (Non-Muhammadan).
Poddar, Mr. Ananda Mohan. (Bengal Mahajan Sabha.)
Poddar, Seth Hunuman Prosad. [Calcutta West (Non-Muhammadan).]

Q

Quasem, Maulvi Abul [Khulna (Muhammadan).]

R

Raheem, Mr. A., C.I.E. [Calcutta North (Muhammadan).]
Rahman, Mr. A. F. [Rangpur West (Muhammadan).]
Rahman, Mr. A. F. M. Abdur-. [24-Parganas Rural (Muhammadan).]
Rahman, Maulvi Azizur. [Mymensingh North-West (Muhammadan).]
Raikat, Mr. Prosanna Deb. [Jalpaiguri (Non-Muhammadan).]
Rai Mahasai, Munindra Deb. [Hooghly Municipal (Non-Muhammadan).]
Ray, Babu Amulyadhan. [Jessore South (Non-Muhammadan).]
Ray, Babu Khetter Mohan. [Tippera (Non-Muhammadan).]
Ray, Babu Nagendra Narayan, B.L. [Rangpur East (Non-Muhammadan).]
Ray, Mr. Shanti Shekhareswar, M.A. [Malda (Non-Muhammadan).]
Ray, Kumar Shib Shekhareswar. (Rajshahi Landholders.)
*Ray Chaudhuri, the Hon'ble Raja Sir Manmatha Nath, KT., of Santosh. (Dacca Landholders.)
Ray Chowdhury, Mr. K. C. (Nominated Non-official.)
Ray Chowdhury, Babu Satish Chandra. [Mymensingh East (Non-Muhammadan).]
Reid, the Hon'ble Mr. R. N., C.S.I., C.I.E. (Member, Executive Council.)
Ross, Mr. J. B. (Indian Mining Association.)
Rout, Babu Hoseni. [Midnapore North (Non-Muhammadan).]
Roy, the Hon'ble Sir Bijoy Prasad Singh, KT. [Minister.] [Burdwan South (Non-Muhammadan).]
Roy, Babu Haribansa. [Howrah Rural (Non-Muhammadan).]
Roy, Babu Jitendra Nath. [Jessore North (Non-Muhammadan).]
Roy, Mr. Saileswar Singh. [Burdwan North (Non-Muhammadan).]
Roy, Mr. Sarat Kumar. (Presidency Landholders.)
Roy, Mr. S. N., C.I.E. (Nominated Official.)
Roy Choudhuri, Babu Hem Chandra. [Noakhali (Non-Muhammadan).]

S

Saadatullah, Maulvi Muhammad. [24-Parganas Municipal (Muhammadan).]
Sachse, Mr. F. A., C.I.E., I.C.S. (Nominated Official.)
Sahana, Babu Satya Kinkar. [Bankura East (Non-Muhammadan).]
Samad, Maulvi Abdus. [Murshidabad (Muhammadan).]
Sarker, Rai Bahadur Rebati Mohan. (Nominated Non-official.)
Sen, Rai Sahib Akshoy Kumar. [Faridpur North (Non-Muhammadan).]

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* President of the Bengal Legislative Council.

Sen, Mr. B. R. (Nominated Official.)
Sen, Rai Bahadur Jogesh Chandra. [24-Parganas Municipal South (Non-Muhammadan).]
Sen Gupta, Dr. Naresh Chandra. [Mymensingh West (Non-Muhammadan).]
Shah, Maulvi Abdul Hamid. [Mymensingh East (Muhammadan).]
Singh, Srijut Taj Bahadur. [Murshidabad (Non-Muhammadan).]
Singha, Mr. Arun Chandra. (Chittagong Landholders.)
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur. (Burdwan Landholders.)
Sircar, Dr. Sir Nilratan, KT., M.D. [Calcutta South (Non-Muhammadan).]
Solaiman, Maulvi Muhammad. [Barrackpore Municipal (Muhammadan).]
Steven, Mr. J. W. R. [Dacca and Chittagong (European).]
Suhrawardy, Mr. H. S. [Calcutta South (Muhammadan).]
Sumner, Mr. C. R. (Bengal Chamber of Commerce.)

T

Thompson, Mr. W. H. (Bengal Chamber of Commerce.)
Townend, Mr. H. P. V. (Nominated Official.)

W

Walker, Mr. W. A. M. (Indian Jute Mills Association.)
Wilkinson, Mr. H. R., C.I.E. (Nominated Official.)
*Williams, Mr. A. deC., I.C.S. (Nominated Official.)
Woodhead, the Hon'ble Mr. J. A., C.I.E. (Member, Executive Council.)

*Oath taken on the 14th February, 1934.

THE BENGAL LEGISLATIVE COUNCIL PROCEEDINGS

(Official Report of the Forty-third Session.)

Volume XLIII—No. 1.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Monday, the 8th January, 1933, at 2-15 p.m.

1934.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh), in the Chair, the three Hon'ble Members of the Executive Council (the Hon'ble Mr. R. N. Reid, C.S.I., C.I.E., I.C.S., being absent), the three Hon'ble Ministers, and 99 nominated and elected members.

Oath or affirmation.

The following members made an oath or affirmation of their allegiance to the Crown:—

(1) Mr. F. A. Sachse, C.I.E., I.C.S.

(2) Mr. O. M. Martin, I.C.S.

(3) Sir Hari Sanker Paul, KT.

(4) Col. D. P. Goil, I.M.S.

Panel of Chairmen.

Mr. PRESIDENT: In accordance with the provisions of rule 3 of the Bengal Legislative Council Rules, 1920, I nominate the following members of the Council to form a panel of four Chairmen for the ensuing session:—

(1) Mr. W. H. Thompson,

(2) Babu Jatindra Nath Basu,

(3) Khan Bahadur Muhammad Abdul Momin, and

(4) Mr. Narendra Kumar Basu.

Unless otherwise arranged, the senior member among them present in the above order will preside over the deliberations of this Council in my absence and in the absence of the Deputy President.

Obituary References.

Mr. PRESIDENT: Gentlemen of the Council, it is my melancholy duty to refer to the death of our Hon'ble Colleague, Sir William Prentice. The tragic suddenness of his demise brings home to us vividly the awful truth that, "in the midst of life we are in death" and that our "mortal coil is verily a muddy vesture of decay." The poet has truly complained, "what shadows we are and what shadows we pursue." The Government and the country have to mourn in Sir William Prentice an officer of sterling worth and of upright purpose—a shining ornament of the great service to which he belonged. We here in this Council have had for many years convincing proofs of his great devotion to duty—a devotion that has, perhaps, cost him his life. Apart from his great abilities as an administrator of proved experience in the highest positions in Government, you will all remember how ungrudgingly he gave of time and labour and in how painstaking and careful a manner he used to prepare his cases for the Council, so that wise decisions may be the result. He was a first rate debator and a trained parliamentarian. His logic and cogency oftener than not called forth real admiration. In this Chamber we shall always miss his commanding personality and voice. In the discharge of a particularly difficult office, he showed a courage and fearlessness which was particularly characteristic of him. He honestly tried, according to the light in him, to secure a genuinely peaceful atmosphere, which we all, perhaps, consider to be essential for the purpose of advancing constitutional reforms in order to help this great country to move along the path which leads to absolute equality with the other dominions within the Empire. There were many who thought that he was not prepared to look ahead to visualize that new road of progress and advancement, or for that matter, the new era of peace and prosperity at the other end of that path. There were many who disagreed with his policy or views—many who disagreed with his readings and decisions—many who thought him hard and unrelenting—but there was not one who doubted his sincerity of purpose, his integrity of character, or his honest determination to do the best for the Government constituted and established by law according to what he thought, after sober and careful consideration, was right. He used his exterior as a stalking horse to hide a kindly nature, full of human sympathy. To know him was difficult, but to know him was a pleasure. Under an official crust there throbbed within him a large and genial heart. While vigorously pursuing the enemy, Sir William's guiding principles were justice and mercy. An implacable foe to the wrong-doer, but a friend to the needy and truly penitent, and no more can be said of anyone. In his arduous and eventful life, in fact, in his every day existence, he fully realised the value of discipline, but he never

failed to combine with his austerity and obduracy [illegible] ivating qualities of a true and tender heart. It is no won[illegible] that his King delighted to honour him. He was made a C.I.E. in 1926, a C.S.I. in 1931 and shortly before his death, in 1933, he was elevated to the rank of a Knight Companion of the Indian Empire. We believe that had he lived he would have rendered further great services to his King and earned greater distinctions, but an inscrutable Providence has snatched him away. Fate is inexorable, and we must bow down to the inevitable. May he rest in peace and enter into the joy of his Lord.

We have to mourn the loss of another sitting member—Rai Gokul Chand Bural Bahadur, who died on the 4th October last, was a member of this Council since 1930, representing the Calcutta South Central (Non-Muhammadan) Constituency. As a prominent leader of the Calcutta Subarna Banik Samaj, a Councillor of the Calcutta Corporation and an Honorary Presidency Magistrate, the late Rai Bahadur was a very popular figure in Calcutta. Government recognised his public spirit and devotion to duty making him a Rai Bahadur in 1933.

It will, I am sure, be the wish of the Council that an expression of our deep sympathy and of appreciation of the public work of our late colleagues should be sent to their relatives.

I will ask you, gentlemen, to signify your assent by rising in your places.

(Pause.)

Mr. PRESIDENT: Thank you, gentlemen. The Secretary will take the usual steps.

STARRED QUESTIONS

(to which oral answers were given)

Calcutta Port Trust.

***1. Maulvi NURAL ABSAR CHOUDHURY:** (*a*) Will the Hon'ble Member in charge of the Marine Department be pleased to state whether it is a fact that the Calcutta Port Trust is affiliated to the Bengal Chamber of Commerce and not to any of the parallel representative bodies like the Bengal National Chamber of Commerce, the Indian Chamber of Commerce, or the Muslim Chamber of Commerce?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state the reasons for the non-affiliation of the Trust to the said representative bodies?

MEMBER in charge of MARINE DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*) The Calcutta Port Trust, which is an independent body, administered under the Calcutta Port Act, is not affiliated to the Bengal Chamber of Commerce.

(*b*) Does not arise.

Chapai-Nawabgunge railway station extension.

*2. **Babu KISHORI MOHAN CHAUDHURI:** (*a*) Will the Hon'ble Member in charge of the Public Works (Railways) Department be pleased to state whether the Government are considering the desirability of taking steps for the extension of the Chapai-Nawabgunge railway station, E. B. Railway, up to the Bazar Ghât on the Mahananda river or for a siding arrangement?

(*b*) Is it a fact that land has already been acquired for constructing a shuttle train line up to the river ghât and the local officers have recommended for its early completion?

(*c*) Is the Hon'ble Member aware that passengers are put to great inconvenience for want of conveyance specially during the rainy season?

MEMBER in charge of PUBLIC WORKS (RAILWAYS) DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*) The construction of a goods siding from Chapai-Nawabgunge station to the bazar has been sanctioned and funds allotted.

(*b*) Land has been acquired for the siding, but it is not proposed to run a service for passengers on the proposed siding which is intended for goods traffic only.

(*c*) No.

Babu KISHORI MOHAN CHAUDHURI: Is the Hon'ble Member aware that the distance of the bazar from the town proper is over a mile and that there is no sort of conveyance available, excepting bullock-carts which are not always available?

The Hon'ble Mr. J. A. WOODHEAD: I have no knowledge of the geographical situation of the bazar and the town.

Babu KISHORI MOHAN CHAUDHURI: Sir, I am simply drawing the attention of the Hon'ble Member to this fact, so that he may take into consideration the inconvenience caused to the passenger traffic.

The Hon'ble Mr. J. A. WOODHEAD: I accept the hon'ble member's statement.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Establishment of Munsiff Court at Barrackpore.

1. **Rai Bahadur SATISH CHANDRA MUKHERJI:** (*a*) Is the Hon'ble Member in charge of the Judicial Department aware—

(*i*) that the Criminal Courts of Barrackpore exercise jurisdiction over the portion of the country from Dum Dum to Kanchrapara;

(*ii*) that the civil jurisdiction of this tract is divided between Munsif Courts of Barasat and Sealdah;

(*iii*) that the distance from Barrackpore to Barasat is 37 miles; and

(*iv*) that the litigant public of this quarter are much inconvenienced in going to Barasat and Sealdah respectively?

(*b*) Are the Government considering the desirability of establishing Munsif Courts at Barrackpore?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*a*)(*i*) Yes, so far as that country lies within the subdivision of Barrackpore.

(*ii*) Yes.

(*iii*) The distance is about 21½ miles.

(*iv*) No.

(*b*) No.

Bengali book entitled "Dewani Adalat."

2. **Babu AMULYADHAN RAY:** (*a*) Will the Hon'ble Member in charge of the Judicial Department be pleased to state whether the Government received a copy of the Bengali book entitled "*Dewani Adalat*" recently published from Benares?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state what actions, if any, have been or are being taken on the allegations made therein?

The Hon'ble Mr. R. N. REID: (*a*) No.

(*b*) Does not arise.

NON-OFFICIAL MEMBERS' BUSINESS

RESOLUTIONS

(on matters of general public interest).

Resolution regarding the economic improvement of the province.

Rai Bahadur SATYENDRA KUMAR DAS: Sir, I beg to move that this Council recommends to the Government to take immediate steps for the improvement of the economic conditions of the province.

Sir, "the economic conditions of Bengal" include many things. It is a very comprehensive term. But with the progress of this special branch of social sciences we are to-day more or less definite about our economic conditions. And, Sir, being definite of our economic conditions, I pray for their improvement with the help of Government; because I know that without the co-operation and help of Government we cannot expect to succeed. And I, also, maintain that every civilised Government is under a moral obligation to improve the economic conditions of the people whom they politically rule. In the modern world Economics is three-fourths of Politics. Politics without Economics we cannot think of.

Sir, I confine myself to two points only in considering the economic condition of Bengal.

What is Bengal? According to modern conceptions—I may be pardoned if I say the most modern conceptions—Bengal is her *raiyat* and *raiyat* is Bengal. They comprise more than 80 per cent. of Bengal's population. In *raiyats* we get absolutely and purely a political concept. There are Hindus and Muhammadans who are *raiyats*. Both of them have mingled together in this concept of "*raiyat*." Therefore, Sir, the *raiyat* means the nation. To improve the economic conditions of the *raiyat* is to improve the condition of the nation as a whole.

Now, Sir, my two points are, first, to save the *raiyat* from agricultural indebtedness, and, secondly, to control the marketing of our crops. Some of us, at least, must have read the reports of the Banking Inquiry Committee of 1931. There you find that Bengal's agricultural debt amounted to Rs. 100 crores in 1929. We have been told very recently by an authority on the subject—Mr. Nalini Ranjan Sarkar—in the *Dawn of India* of 4th August, 1933, that this debt "is gradually increasing."

Sir, with respect to our agricultural debt, there is a great gulf between 1929 and 1933. These five years are years of great economic depression. The prices of our crops have fallen more than those of manufactured products. I will not go into the reasons of this fall in

prices. I would make only a statement of facts. Our jute prices have fallen beyond all measure—and this fall of jute prices for the last few years have broken the backbone of Bengal's economic structure. Bengal's *raiyat*, which is another name for the Bengali nation, is now in the midst of a great economic ruin, which, I regret to say, many of us cannot yet imagine.

Sir, I am very definite about what I say, and I do say that Bengal is being ruined—if not already ruined—on account of this agricultural debt. Before this somewhat tragic and mighty problem all other problems, *e.g.*, of our recent "constructive programme" for the nation, including "cattle-breeding," dwindles into insignificance. I say it most emphatically, so far as Bengal is concerned.

Sir, I submit that Bengal's agricultural debt is something like double the amount of what it was in 1929. I shall not be surprised if it has come up to Rs. 200 crores. It has increased for more than one reason, but I must not trouble you with the details of my reasonings for the present.

Sir, it is admitted on all hands that something must be done, and that too immediately, to solve this huge problem. To us the Bengali nation seems to be the only problem. It is a mistake to say that it is only the problem of the agriculturists. I say it is also a problem of those who are not agriculturists. And it is a great problem for the Government too. We know that His Excellency—our present Governor—is giving a serious consideration to this problem. We are all grateful to His Excellency for all that he has done. But I regret to say that we are in the midst of a stormy sea and no land is in sight yet. No solution, no serious attempt for solution by Government, we have yet heard of. If the present Government fails to come to any solution, history, I am sure, will not call the present Government wise.

In our present preliminary stage, we should invite more practical suggestions. We have some suggestions, and the setting up of land mortgage banks is one of them. The exact working of this particular class of bank in our rural areas must adapt itself to the existing economic environments of the villages. Many of us even do not know what the existing methods of financing the *raiyats* are. We must know them, then we must change them. We have got to do it, or we shall die a national death.

The creation and the working of land mortgage banks will bring a change—I think a great change. It is a change from the individual money-lenders to the organisation of money-lenders. In place of the whimsical *mahajans*, we shall get an impersonal and methodical organisation. This is a great gain not only for Economics, but also for Politics too. Sir, it is the organisation which we lack—and, again, it is the organisation which we want.

Mere land mortgage banks will not suffice. They cannot solve the whole of the problem. There are some other kinds of debts—and I guess the amount of these debts would come to something like half of the total of debt, which can, on no account, be paid back. I am not an alarmist; neither, Sir, am I a pessimist. But truth must be told when the crisis overcomes us. Our agriculturists cannot pay half of their total debt. This is the plain truth. And I beg Government on my knees that our *raiyats* should not be coerced under the law, and that they should not be coerced to pay this half amount which they really cannot pay. Coercion in this respect will compel the *raiyat* to revolt; and, Sir, revolt is a bad job.

I suggest the enactment of a Rural Insolvency Act or some such Act, whatever you may be pleased to call it, so that it might give immediate relief to the *raiyat*. There is no other way out of it. If we do not do it willingly, I fear it shall be done in no distant future against our will. We get scent of impatience from the distant *mufassal* cottages, where the *raiyat*—I mean the nation—lives. The impatience of a nation under economic pressure is not a thing which the Government can trifle with.

Sir, my second point is to control the marketing of our crops. Everybody knows that the fall in prices of jute has completely crushed the Bengal *raiyat*. The *raiyat* can neither pay to the landlord nor to the *mahajan* his dues. What are the effects? The *mahajans* are paralysed, and the landlords are almost dead. Those professions which live on landlords and bankers are starving unto death. The fall of jute prices have done all these. Everybody can understand it.

It is, Sir, really a bad habit to cry in season and out of season that the world economic crisis is responsible for it. How can we help it? To people who say these things my reply is: "We can help ourselves." Sir, in this open broad daylight we refuse to die as a nation.

Our jute prices must have a State control. And for the matter of that, the Government of India should be moved. Our jute prices must cover all the costs of production: it must maintain our *raiyats*, because our *raiyats* have got a right—a full right—to the produce of their labour. The *raiyats* will till the soil, they will produce the national wealth, and, in return, what you propose to give them? Starvation from generation to generation. Those who believe that these things can go on indefinitely, I am afraid they are born in an age too late.

Sir, Mr. Deviprasad Khaitan, another eminent authority on this subject, has of late said as follows in the *Dawn of India* of 14th July, 1933:—

> "The agriculturists and the *zamindars* should join hands to put sufficient pressure on the Government to improve their position by increasing the prices of the agricultural commodities without any delay."

Mark the words "without any delay." I can understand this, but in what particular way the tiger and the cat—I mean the *zamindar* and the *raiyat*—will combine is more than what I, a Bengali, know. The *zamindars* and the *raiyats* cannot combine for more reasons than one.

Then, we come to the "pressure on the Government." Well, I do not know what sort of "pressure" Mr. Khaitan contemplates; but this much I know—that the Government and the national movement must co-operate, if we want these things to be done by the Government.

The demand must come from the nation direct. No slippery combination of *zamindars* and *raiyats* will do.

Sir, with the two suggestions which I have put forward, *viz.*, Land mortgage Banks and a Rural Insolvency Act, I point my finger to the solution of our agricultural debt. Further, with the suggestion of the State control of our jute prices I think that the economic conditions of Bengal can be improved.

Sir, with these few words, I commend my resolution to the acceptance of the House.

Dr. NARESH CHANDRA SEN GUPTA: I congratulate the Rai Bahadur of Dacca not only on his luck in the ballot-box, but also on his having formulated a resolution which may mean everything as well as nothing, a resolution which is absolutely backward, and one with which there is no one in this House who would probably disagree. He asks the Council to take immediate steps for the improvement of the economic condition of the province; he might have added one or two items, that is, immediate steps for improving the climatic condition of the province and providing for the success of the Indian team in the Test Match. It would have meant approximately the same thing. But in his speech the Rai Bahadur indicated some of the things which he wants. I am rather surprised to find there he has ignored the many developments taking place recently, the steps taken or about to be taken by the Government, and the assurances given on high authority, of the intentions of Government in the matter of economic reform. These are matters which have not yet emerged in a shape in which we can discuss them as yet, but certainly I think it is desirable that we should express our gratification that the Government is going to take the matter seriously, and is going to consider the steps to be taken on what, I think, are right lines. Some of these lines have been indicated by the Rai Bahadur, but there are other things which have got to be done and which will probably engage the intention of Government if they carry out the resolution in the spirit in which it has been made. There is one item of the Rai Bahadur's speech with regard to which I must enter my definite protest, and that is with regard to a Rural Insolvency Act, a

thing talked about by people who very often do not understand what it means. Insolvency is not necessarily a remedy which will appeal to those of us who have the welfare of the *rayait* at heart, an insolvency which simply takes all that the *raiyat* has in liquidation of his debts would not help him in the least. A modified rural insolvency law by which the lands are retained and a means is found for the liquidation of his debts by conciliation, would be desirable, but if we have a Rural Insolvency Act now, well, I can say that I know that 90 *per cent.* of the people would not benefit by it. I am not good at statistics, but I am not sure that nearly 90 per cent. of the cultivators are not already insolvent; if they are so, and if a Rural Insolvency Act is passed, they will be deprived of their own lands in lieu of their debts. It will have this effect: it will convert the proprietors of the land into labourers. That is hardly desirable.

What we do want, as has been indicated by the mover of this resolution, is a debt conciliation by which the *raiyat* should be made to pay what he is able to pay towards his debts, without depriving him of his means of livelihood. That is the sort of debt conciliation which is wanted, not a simple insolvency law.

With regard to the rest, I do not want to trouble the Council having regard to the fact that the matter is under the consideration of the Government, and probably we shall be asked to express our views on their considered opinion very soon. I do not think myself that this resolution is going to serve any very useful purpose at all.

Babu KHETTER MOHAN RAY: Mr. President, Sir, in rising to speak on this resolution I beg to say that the question of economic distress through which our country along with the rest of the world is passing, is intensely exercising the mind of our people at present. Everybody, high or low, is more or less affected by this trade depression. One absorbing topic for discussion in every circle is how long it will persist. Sir, in 1930, when our country felt for the first time the effects of this terrible calamity, our people fondly hoped that the trade depression was a passing phase of the trade and would in the course of a few months subside. But, alas, after more than 3 years during which our country has been in the grip of the monster of economic depression, we find there are no signs of its abatement. On the contrary, every year we have felt its grip more tightening than the preceding one, and the economic condition of our province is getting worse year by year. During the last few years of economic depression prices of commodities have been considerably reduced. In Bengal jute is the principal commercial crop; prosperity of Bengal was mainly owing to the jute trade. It will not be an exaggeration to say that 90 *per cent.* of the people used to depend for their subsistence directly and indirectly on the jute

crop and its trade, which is still the monopoly of Bengal. Prices of jute during these years have been reduced to one-fourth of its normal prices. Bengal is pre-eminently an agricultural country. In normal times value of the estimated crop produced in Bengal was about Rs. 300 crores but it has been reduced at present to less than Rs. 100 crores. Besides, our province is not industrially developed as other provinces in India. Except the jute industry, we have no other industries on which our people can depend in these times of distress. It is no wonder that our province is more affected than the rest of India. Results are that the agriculturists and with them the landlords, the money-lenders including joint stock and co-operative banks and all classes of trades people and labouring classes have suffered and suffered terribly from the effects of the economic distress. Tenants were compelled to sell their agricultural produces at uneconomic prices and were unable to pay rents and cesses which have been piling up year after year. Similarly, debts of all classes of people including agriculturists, *zamindars*, traders and joint stock banks and other money-lenders who used to borrow money to lend the same to the agriculturists have been mounting up. There is abundance of crops but there is dearth of money. Abnormal fall in the prices of commodities is proving disastrous to the people of Bengal. Other countries in the world have become victims of this terrible scourge of trade depression. The difference between those countries and India lies in the fact that while the Governments of other countries have made repeated attempts to improve the condition of their people with varying success, our Government have hitherto taken no steps to counteract the effect of trade depression and waited patiently and silently for something to turn up itself. Every day we read in the newspapers about the heroic struggles put up by the Governments of other countries against this terrible trade depression. It is true that their efforts are not always attended with anticipated results, but they have the effect of decreasing unemployment to a certain extent. On the other hand, India is looking on with an air of calm resignation leaving everything to *kismat;* and whilst the lot of the agriculturists is going from bad to worse and has been deplored by the Government, no scheme has yet been formulated or worked out for effecting improvement in the situation of the country. It is not that our Government are not aware of the real situation of the country. They have more than once described it in its true colour. It is not time to sit idle when the house is on fire. It is high time that some concerted action should be undertaken to bring about improvement in the situation.

The Local Government have lately announced its intention to appoint a Commission to make an inquiry into the economic condition of the agriculturists including their indebtedness. But, I beg to point out that this inquiry should be all comprehensive, embracing an inquiry into the condition of the *zamindars* and other landlords, money-lenders

including joint stock banks and traders connected with agriculture. No doubt the majority of people in Bengal depend directly or indirectly on agriculture for their livelihood. If the condition of the agriculturists improves, condition of other classes of people will, to a certain extent, improve. But the classes of the people I have described above form an important link in the economic life of the country. You cannot improve the condition of the agriculturists without including in the purview of any scheme intended for improvement of cultivator, the condition of the other classes of people. Owing to abnormal fall in prices of agricultural products, the agriculturists are unable to pay their rents and debts; the landlords in their turn owing to their failure to realise rents from the tenants have not been able to pay revenues and rents and have to contract debts to pay the same. I know good many amongst them had contracted debts to save the tenants from the terrible situation. The money-lenders and the joint stock banks borrowed money in order to invest the same to the agriculturists, and traders sold goods on credit to the agriculturists, hoping to be repaid when the situation improved but their hopes were belied. In this state of things, if an inquiry is to be made into the economic condition of the country it should be all comprehensive as suggested above, and include all classes of people connected more or less with agriculture.

Here I venture, Sir, to suggest that the economic condition of Bengal can be greatly improved if the Government can raise the prices of jute which is the principal commercial crop in the province. I should like to say that the jute being a monopoly of Bengal its prices can easily be raised by restriction on its cultivation similar to that which has been put on the cultivation of tea. The results of such restriction are wonderful. It may be said that conditions of the cultivation of tea are not similar to those of the jute cultivation, but our Government and people acting in concert may surely devise methods of restriction suitable to the cultivation of jute. One of the methods is to make propaganda amongst the jute-growers to restrict the area of jute cultivation by half. This will have marvellous effect in restricting the area, as was the case year before last when the Government made such propaganda by its own agency. It will not be difficult to make such propaganda through the District and Subdivisional Officers, thana officers, union boards and circle officers. If the Government really desire the restriction of jute cultivation, surely the Government have means of doing this effectively. Besides, some sort of legislation should be resorted to make the restriction effective.

There is another thing in this connection, which I wish to impress on the Government, I mean the annual publication of jute forecast. This forecast instead of doing good to the agriculturists has done immense mischief to them in the past. We know the jute-growers are

almost illiterate and ignorant people. The forecast is published in a language foreign to the jute-growers. They do not benefit by this publication. The jute merchants, traders and mill-owners only reap the benefit at the expense of the jute-growers. In the present financial year, the jute forecast was published at a time when jute was selling at Rs. 4 in average, but the immediate effect of this publication was to lower the prices of jute by halves. Are the Government aware that this publication had the means of bringing desolation and miseries to the thousands of home of jute-growers? I myself saw the effects of this publication while I was passing my Puja holidays in villages in our district. I, therefore, suggest that one of the means of raising prices is to cease publication of jute forecast in future.

We hear much of land mortgage banks. I have great sympathy with the principle underlying these banks. The question is whether such banks will succeed in the present state of the country. At present the agriculturists have no margin of income left to them after defraying their own expenses and paying rents. Rents must be paid first, as it is a first charge. If the tenants have no money to spare to pay debts in instalments which may be settled, I cannot see how these banks will thrive. I, therefore, like to impress on the Government to take immediate steps to raise prices of jute at least before any scheme of land mortgage is launched into the country.

Rai Bahadur JOGESH CHANDRA SEN: I whole-heartedly support the spirit that is behind this resolution of my hon'ble friend, Rai Bahadur Satyendra Kumar Das. It is a happy sign to find that a millionaire, like my friend the Rai Bahadur, is thinking of the economic condition of the people in general. If the economic distress mentioned by the Rai Bahadur can be removed from the land, then, I am sure that many of the present-day troubles would be over and over in no time. To my mind, Sir, poverty is the root cause of all sorts of discontent. Previous speakers have examined it from their point of view, but I will draw attention to another picture. We congratulate the Government for the small start that has been given by the Hon'ble Minister in charge of Industries and Agriculture in this line. His able lieutenant, Mr. Mitter, is doing all that is possible for the industrial scheme, but I must say that that is not enough. We are an agricultural people and agriculture and industry in our province must go hand in hand. The present economic condition is so very bad that we cannot remain satisfied with this modest beginning. Sufficient amount must be placed in the hands of the Hon'ble Minister so that he can go ahead and foster cottage and other small industries, as without this we cannot find out new avenues of employment and income. Along with this we want agriculture to improve by starting demonstration farms

and practical classes in every thana of this great province, so that people can take to it and find more employment, and, by this the economic problem will be solved. It will do good both to the rulers and the ruled; there will be happiness, contentment and peace in the land and there will be no trial of strength between the rulers and the ruled: there will be no cowardly murders. Co-operation is the motto and foundation of our future Government. Government will be lucky in guiding the destinies of millions of people who are happy and contented—and these present-day troubles will cease to exist. I appeal to the Hon'ble Mr. Woodhead that he should place Rs. 20 lakhs in the hands of the Hon'ble Minister for agricultural improvement and another Rs. 10 lakhs for the starting of demonstration farms and practical agricultural classes and propaganda work. I hope Mr. Woodhead will kindly do this favour to this department and try to build up a nation for which he will ever be remembered.

Mr. J. N. GUPTA: Sir, I rise to support the very important resolution moved by my friend, the Rai Bahadur. But, as Dr. Sen Gupta has pointed out, the resolution might appear to be somewhat belated in view of the steps, the very important steps, which Government have already taken in this matter. As we all know an important Economic Board has been appointed, and quite recently orders have been issued for the appointment of a senior officer to take charge of rural development work. All that we can now press for is that this wise decision of Government should be supplemented by placing in the hands of those who are now charged with this important duty of investigating the causes of our economic decay and finding out means of remedying it, sufficient funds to take necessary action; or in other words, what is necessary is that Government should set apart some money and that without delay for giving a practical lead to the good decision which has already been arrived at by His Excellency the Governor. The appointment of an officer to take charge of development work without adequate funds and finances to supplement the work of those departments which are now charged with social service work, namely, the Departments of Agriculture and Industries, and Co-operative Credit, would really mean very little. We are fully aware of the great importance of finding out a permanent remedy for our rural indebtedness and going to the root of the matter by careful investigation by an expert body, but at the same time I submit that we have already sufficient data available to make it possible for constructive action to be taken, and as an officer has been appointed I suggest that immediate steps should be taken to elucidate the practical ways in which he is going to take action, in what directions he is going to act, and what departments he will have to work with and how he will be able to bring about co-operation between these departments—a co-operation which has

been so strongly advocated by the Agricultural Committee and the Bengal District Committee, which sat many years ago. These are important points and I am anxiously looking forward for detailed instructions of Government on these points. That should be followed by the allotment of sufficient funds as I have already indicated, but the time for discussion of this important point will come when we are discussing the next budget. I hope the whole House will combine in seeing that sufficient funds are placed in the next budget in the hands of the Hon'ble Ministers in charge of the social service department of the nation.

As regards the definite recommendation made by the Rai Bahadur, I agree with the remark made by Dr. Sen Gupta that a Rural Insolvency Act does not commend itself to us; and it is not a matter which can be disposed of so quickly and so easily. I am afraid such a measure will create more difficulties and will not help us in clearing the ground for rural renaissance. Nor do I think that it is possible by any act of the legislature or by any act of Government to artificially raise the price of our agricultural products. I am aware that partial responsibility for this present phenomenal fall in prices is placed on the existing currency and financial policy of the Government and I have seen recommendations made for action on the lines of the steps taken in America and other countries, for raising the price of agricultural and other products. But we should wait and see what happens in these countries and as a Jute Committee has been appointed we should wait till we know what its recommendations are. Therefore, as regards the definite steps that have been recommended by the Rai Bahadur I think we shall be acting with unnecessary haste if we try to anticipate the findings and recommendations of the Jute Committee. At the same time I am perfectly certain that we have sufficient data before us to enable us to take immediate action for the advancement of the economic condition of the agriculturists and the revival of small rural industries for which such interesting suggestions have been made by my friend, Mr. S. Mitter, the Industrial Engineer, and which have been accepted by Government. Unless, however, much more money is made available I am afraid we cannot make much progress in reviving our cottage industries. My only object, therefore, in supporting this resolution is to impress upon the Government the necessity of finding sufficient funds immediately for the Social Service Departments, so that the great question of the economic improvement of the nation may not be held in abeyance any longer.

Rai Bahadur KESHAB CHANDRA BANERJI: Mr. President, Sir, in rising to speak on the resolution before the House I need hardly say that the Government have not failed to realise that steps must be

taken to improve the economic condition of the people. That the deplorable economic condition of the people of Bengal has made it impossible for the Government to take action in the way of improvements was stressed by His Excellency the Governor in this Council on the 28th February last, when he said that Bengal's expenditure per head in 1929-30, the last normal year before the advent of the present depression, was as low as two and a half rupees, while the figures for Madras and Bombay were over four rupees and eight and a quarter rupees, respectively. The distressing economic condition of the province has been responsible for this low standard of expenditure. And Government have not been slow to take necessary action with a view to exploring every avenue of improvement. We are thankful to Government not only for the firm stand they have taken before the Joint Parliamentary Committee with regard to Bengal's claim to the proceeds of the jute export tax, but also because of the laudable work that is being done in connection with the unemployment relief scheme. When this scheme which had been adumbrated by a member of this Council came up for consideration, objections, hesitations and difficulties were postulated. But the Government swept everything before them by a deep desire to do good that made all objections seem vain and futile. And to-day we find how the working of the scheme promises to inaugurate a new era of economic progress in Bengal. Instances can be multiplied; but considerations of time preclude the possibility of my dilating upon them. But I cannot sit down before I refer to the latest move by Government, that of appointing an Economic Board of Inquiry to advise them on the work of rural reconstruction. I have great hopes in the success of that Board which will soon begin to function. Then the Government cannot be accused of having been delinquents in the matter and have not in any way neglected their primary obligation in taking steps to ameliorate the economic condition of the people of this province. As His Excellency the Governor has said, "The problem is not one for Government alone," I hope the co-operation which His Excellency has appealed for and which alone can ensure the success of the work will be forthcoming in abundance and produce a bright and prosperous future for the land we live in. Sir, there is none in this House who will not sympathise with the object of this resolution. I am not here to defend Government, but I have simply stated the real position of the Government and the steps hitherto taken by them in this direction; and I need hardly remind the House, as I have already stated, that Government have not been indifferent in this vital matter. Sir, there is one remark in the speech of the mover of the resolution which is open to serious objection, the Rai Bahadur towards the end of his speech has placed the *zamindar* in the position of the tiger and the *raiyat* in that of the cat. It would have been more appropriate if he had likened the money-lender, to which class he has the privilege to belong, to the tiger and the unfortunate debtor to

the cat. I have emphasized time and again the fact that the interests of the landlord and the tenant are indissolubly bound up together and it is anathema pure and simple to call the *zamindars* tigers.

Maulvi Abdul Hamid Shah delivered a speech in Bengali of which the following is a translation :—

Mr. President, the resolution that has been brought forward drawing the attention of the Government to the necessity of improving the economic situation in Bengal has its importance and weight brought home to both the Government and the people. But until the factors that have been instrumental in bringing about the present crisis and measures calculated to improve it are critically and dispassionately analysed, there is hardly any chance for the object of the resolution being fulfilled.

Sir, the day when Bengal was at the zenith of her glory her economic policy was so framed as to reconcile the interests of all the different sections of people in the country with those of the agricultural community. The State invariably intervened whenever the clash of interests proved a menace to the economic structure. In those days the *zamindars* devoted the greatest attention to the improvement of land and ameliorating the condition of the peasants and were thus bound to them by ties of affection. But the moment the *zamindars* began to have for their immediate concern only the collection of rents due from their tenants and nothing else, the situation changed and culminated in the present woeful state of things.

Thus, Sir, the economic deterioration of Bengal may be traced back to the dissolution of the bonds of affection that existed between the *zamindars* on the one hand and the peasants on the other. Hence, it is the *zamindars* now who will have to exert themselves more than others for the economic rehabilitation of Bengal. They should with the collaboration of the Agriculture and Co-operative Departments of Government try to increase the fertility of the soil and thereby improve the agricultural output and then help the peasants to settle peacefully in their holdings and place the crops raised by them in the best possible market. The *zamindars* should again return to their position as patrons of arts and crafts and for the matter of that of the cottage industries which have suffered the greatest set-back at present in the absence of their patronage. Now that Government are devoting themselves to the question of revival of cottage industries in Bengal, the *zamindars* would have their task in this line considerably lightened.

Sir, the destruction of the ideal economic structure which I have already referred to has proved a menace to the financial position of all the different communities. The selfish policy followed by the various communities to safeguard their own interests irrespective of those of others has reacted as a double-edged sword. It has impoverished the

peasants as well as their creditors. There is to-day hardly any *zamindar* who has a sound reserve fund to draw upon at this critical moment, and, as to the woeful conditions of the *mahajans*, the less said the better—they have parted with all their hoard in the vain hope of multiplying their capital at prohibitive rates of interest. The condition of the different professions is also extremely precarious.

Now the question is how to tide over the present crisis. The speakers who preceded me all laid the whole burden of responsibility in this matter on the shoulder of the Government. But so long as the permanent settlement is there, I do not think that the Government are bound to share all the responsibilities in this matter. All that may be expected of them is to lead the way. Government should set the initiative and the other communities should join hands with them.

Sir, the Government of Bengal have proposed to appoint a Committee to inquire into the economic situation and it is soon to begin work. I would place my views on the subject before the said Committee. But I am very sorry to note that the Bengal Money-lenders Act which the Government assured us would be given effect to without further delay has not yet come into operation.

Khan Bahadur Nawab MUSHARRUF HOSAIN: Sir, this is the third time that I am thinking of speaking on this subject in the course of one year. On the first two occasions I put forward a complaint that the Government members were not present to hear what we had to say on the subject. To-day I see a change has taken place. All the Hon'ble Members and Ministers are here to know the opinion of the representatives of the people on the most important subject that has ever come up before the Council. The subject is such that no stress can be given on its importance, and I congratulate my friend, the mover of the resolution, for bringing it before the House. Indeed, Government have announced that a committee of inquiry will be appointed to formulate a recovery plan. I am glad that Government have seriously taken up the subject now, and I hope the recovery plan that will come up before the country will be of such a nature that all of us will have absolutely no complaint to make. Almost every business is now organised. I am myself in the tea trade and saw it going down and realised my position, and therefore asked my friends, who are absent now, to come to some definite understanding, so that the condition of the tea market might improve. From a different point of view my friends were working and they did not agree. The *Statesman* helped us in ventilating our grievances and succeeded in the end to create an atmosphere which compelled all unwilling people to combine and bring about a scheme for restricting the output. So, the difficulty I experienced in the beginning was overcome.

Next comes jute. This is also an organised trade. In the case of tea the producers and the dealers are all of the same class. But here in the case of jute there is some difficulty. Here though they are really dealing with jute, they do not belong to that class of people who are dependant on jute; I do not mean by that only tenants, but I mean all classes of people who get their profit out of jute, *zamindars*, the middlemen and everybody concerned. Being in business myself I know what a combined ring is. The combined ring is always responsible for bringing about a catastrophe in the whole world. If anybody has read to-day's *Englishman*, he will notice that a certain company, a jute dealers' company, who last year made a profit of only £2,000, has made a profit this year of £50,000. So, what the poor cultivators have lost has entered into the pockets of my friends on the other side—it is unfortunate that none of them are here to-day and that is the worst of it. If Government are really anxious to help the country they should compel the buyers to purchase at a fixed price. But if they go to see them every morning and evening and try to pacify them, they cannot be called good administrators. Being myself in trade I know that if there is a slump, the buyers get the best advantage of it. I know in tea while I was not getting a profit of a farthing per pound, the actual buyers were getting a profit of a shilling per pound. Exactly the same thing has happened in jute. If Government is really determined to do good to the people, they should come forward with a definite proposal first to break the ring and then to fix a price. Jute is our monopoly. Some of my friends with whom I was discussing this matter were of opinion that if the price of jute is raised, cotton will replace it. I know America has already imposed a countervailing duty on jute products in order to ensure a better market for cotton goods. I would be prepared to take the risk and fix a price for jute. While discussing this subject with some of my friends I told them that I would be prepared to give them half of my output of tea free and to sell the other half at four times the price that is now obtaining. I think it is absolutely necessary to readjust the whole thing. Suppose a company which is making a profit of, say, Rs. 50,000, if we reduce it considerably, the company will not die. That being the position, I do not see why Government should hesitate to fix a price and compel the buyers to purchase at the fixed price. This is a suggestion which I very seriously make in this House to the Government as well as to the representatives of the people. Government should appoint some one who has knowledge, to buy the whole lot, and then they should sell it at a fixed price. After all, anybody who has got some knowledge can at once say that Government can easily have that money, if they would. Why should not Government control? Of course there are other things in which they have done something. I am sorry I do not like to make myself unpopular with my friends on my right, but my *zamindar* friends could do a lot in this direction; but they have got no

brains (laughter)—I do not mean anything, but I being a *zamindar*, I myself have had to complain much, but they have not been working in their own line——

(The member here reached the time-limit.)

.....May I not have a few minutes longer considering the importance of the matter?

Mr. PRESIDENT: I am sorry I cannot give you more time.

Babu JATINDRA NATH BASU: I do not desire to take up the time of the House by impressing upon the House the self-evident fact that the thing people are most concerned about is their economic condition. It is the neglect by the State of their economic condition in the past that has hurt the people. Though it has been said that this country is economically a self-contained country, and that there are almost untold avenues for economic expansion, unfortunately the expansion that has taken place so far has been such that the economic life of the people has not progressed with the times. It is a thing, as I have said, very keenly felt by the people. It is hopeful that the State has now seen the urgency of the problem and has announced that there will be an inquiry. We do not know the exact nature or scope of the inquiry. Various suggestions have been made in the course of this debate. Nawab Bahadur Musharruf Hosain, who has just spoken, has indicated that the inquiry should not only be as regards our economic resources, but also he would like the inquiry to embrace the question of the proper marketing of our produce. I am referring to produce because so far as our economic development at present goes, we are practically an agricultural country. There is undoubtedly jute and certain other manufactures, but they do not touch the people so intimately and so widely as the question of the value of our agricultural products. The value of our products has been steadily going down, and nobody appears to keep count of the factors that have led to our being ousted from markets which we previously commanded for our commodities. These are things which touch us very seriously, but while in our heart of hearts these are the problems that affect us most, so far as public action on the part of Government is concerned, other things appear to engage their attention and their energies much more than this particular problem. Recently, after the speech of His Excellency the Governor on St. Andrew's Day, there was a debate on a cognate matter in the Legislative Council of another province and the statement made by His Excellency was referred to in the course of that debate. The Minister there, in reply to the debate said that though there was going to be an inquiry in Bengal, he was almost sure that nothing would be done as a result of that inquiry. This fact was reported to me by the gentleman who brought the motion before that

house. The motion was that Government should adopt a planned scheme of development in which the various methods that were to be adopted were to be thought out and laid down, and Government should go ahead and carry out the methods without waiting for other people to do the work. I sincerely trust that so far as that charge is concerned, there is no foundation for it. Let us hope that so far as our Government is concerned it will make a real inquiry as to the various economic spheres that control our economic life and make it sink or make it swim. We must have it that when Government finds the causes that have led to economic stagnation or set-back, Government will take steps having regard to the various factors which touch the problem of our economic condition. It should be remembered that we are no longer isolated; world currents move our economic life; such currents greatly influence the economic factors in the country. I trust that when the facts are found, steps will be taken so that the people may not go round and round in a circle without knowing the way out, and that the economic life of the people will be placed on a sounder and more progressive basis, and the State will come more in touch with the actual work for the economic advancement and progress of the people on a working basis than it has been up to the present. That is the hope that I express.

Maulvi TAMIZUDDIN KHAN: This resolution as it stands appears in its comprehensiveness like a big order and it is this aspect of the resolution that brought forth a sarcastic remark from my friend Dr. Sen Gupta that the mover might as well add a rider for the improvement of the weather conditions of Bengal. A little reflection will show that the resolution is a very important one. This resolution raises another wider question, namely, the question of the duty of the State towards the economic well-being of its people. Fortunately, Sir, our Government seems to have awakened to a sense of its responsibility in this respect, although I must say it is a rather belated consciousness. Various speakers on the floor of this House have congratulated the Government not only on this awakening but also on the steps that have been taken and are being taken towards the economic improvement of the condition of our people. I am not however so very enthusiastic in my congratulations although I join my friends in the chorus. In an agricultural country like this the prices of the products of the soil comprise the most important factor that has to be taken into consideration in any attempt to improve the economic condition of its people. So far as this is concerned, every one will agree that the price of jute stands in the forefront. Raise the price of jute and the condition of Bengal will improve in a day. So far as this is concerned, both in this Council as well as outside it Government has been urged to take steps in this matter times without number. The Government cogitated for long years and in the long run appointed a committee of

inquiry. That committee has given its report, but we did not know what steps the Government have taken to give effect to that or what steps are contemplated to be taken. I am told that the report is not yet published and we know it is not yet published as we as members of the Council would have been favoured with copies of it had it been published? I have very little faith in these committees and their reports. Whenever Government chooses to appoint a committee of inquiry I for myself look upon that act of Government with a degree of suspicion. To my mind when the Government resolves not to do a thing it records a resolution appointing a committee of inquiry so that the matter may be shelved for ever. That seems to be the fate of all the reports of almost all inquiry committees in this province.

Now if the question of jute is not properly tackled, I think that mere tinkering with some of the minor problems will bring no appreciable relief to the people. Still these minor problems also require careful consideration. Of these, the indebtedness of the people of Bengal is a very important question. In this respect also, Government seems to have been pursuing the same policy as with the jute question. Government did not itself do anything in this matter. In the long run a private member was compelled to introduce a Bill which was fortunately passed in the Council. We do not know however whether the Act is going to be enforced or whether it is going to be shelved. When important questions like these are raised in the Council, members are always requested to wait and see. I do not know how long we shall have to wait. Shall we have to wait until the Ganges is dry?

Another important question is the question of development of industries. Here I must acknowledge that the Government has taken certain sincere steps, but the funds provided are so scanty that no appreciable results are expected. Now we are hearing about the appointment of another inquiry committee, namely, a Board of Economic Inquiry. We do not know what that Board will actually do. So far as the appointment of these committees is concerned, there is one thing to which I like to draw the attentions of Government. It is more often than not that the terms of reference of such committees do not meet with public approval. Curiously enough although this Council meets so often during the year Government does not care to take the Council into its confidence before such committees are actually appointed. If that is done, I think this Council may offer valuable suggestions not only regarding the terms of reference but also the personnel of such committees. Government may or may not accept the recommendations of the Council, but matters of this description ought to come before the Council to give it an opportunity of expressing its views. I think this is a matter which should receive the consideration of the Government when committees are appointed in future.

It will perhaps be said that the Council always gets an opportunity of discussing such questions during the budget discourse. True we get some opportunity but it is of an extremely limited nature and we also know, with what respect discussions during the budget debate are treated by Government. In conclusion, I say that Government deserve some credit for the steps that they are taking. What I urge upon them is that they should be more active and alert and if anything is to be done, it should be done now and not a day should be lost in coming to a final decision.

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: Sir, at the outset, I would refer to the discussions in connection with the resolution passed by this House nearly two years ago, recommending to Government that a committee consisting of official and non-official members of the Council and experts should be appointed to make a systematic examination of the present economic depression in Bengal, and to make suggestions as to what temporary and permanent measures may be taken to alleviate the distress, and to ensure a steady economic progress of the people of the Presidency. As was explained on behalf of Government in that connection, this depression has affected every civilised country in the world to an extent almost unparalleled in history. The trade and commerce has been almost brought to a standstill. And the money market has been at its wit's end as to how to tackle the situation. It is hardly possible for any single government to deal with the general causes of this world-wide economic depression. The Government of Bengal have been investigating on their own account the steps which could and should be adopted with a view to dealing with the present situation so far as lies in them; and an Economic Committee of the Cabinet has been appointed under the Presidentship of the Leader of the House who will speak on this resolution as also the Hon'ble the Finance Member who is another member of that Committee. I shall now proceed to indicate some of the steps which have been taken with special reference to the Departments in my charge.

Apart from general factors which have affected almost every country in the world, the fall in the price of jute, which is the most important money crop of the province, is one of the primary factors responsible for the acute economic depression in Bengal. Government, therefore, appointed a strong Committee consisting of representatives of all interests in the production and marketing of jute to investigate the problem. That Committee made a detailed inquiry and its report will receive the careful consideration of Government with a view to taking such action on it as may be found feasible. The Agriculture Department have also been investigating into the possibility of substituting other money crops for jute. The most important of such crops which

has suggested itself is sugarcane, and, as a result of departmental propaganda, there has been a remarkable expansion of the area under Coimbatore cane in Bengal. In 1932, a record distribution of 52 lakhs of sugarcane cuttings was made from Government farms. A substitute money crop for jute has thus been found in the present economic depression. The problem now is to secure a profitable return for the sugarcane. Steps have accordingly been taken to demonstrate the processes of manufacture of sugar. An improved power-crusher and *gur*-boiling plant have been invented by the Agricultural Engineer, the use of which will, it is hoped, make sugar manufacture a profitable undertaking for small agriculturists. All these have given an impetus to the establishment of sugar factories and about 50 such factories have been started at different centres in the province.

The improvement of paddy cultivation has also been receiving attention. In Bengal paddy is grown chiefly for local consumption. But about 5 *per cent.* of the production is annually exported, and this export trade is of great importance to those areas which grow the particular varieties. The chief of these is called *patnai* paddy. In recent years, the export trade in rice has been experiencing increasing competition from Italian, Egyptian, Spanish and American markets. Accordingly, we obtained a grant of a lakh and a half rupees from the Imperial Council of Agricultural Research, and with the help of this grant the Agriculture Department has started work on improvement.

Then, as the House is already aware, we have just initiated a scheme at an annual cost of about one lakh of rupees for the solution of the problem of unemployment through the agency of the Industries Department by giving training to middle class young men in suitable local industries, the products of which find a ready market.

Further, with a view to extending long term credit to cultivators and other similar persons, we have decided to start immediately five land mortgage banks on a co-operative basis in selected centres of the province to start with, and arrangements are already in train with this object in view.

I cannot conclude without referring to His Excellency's speech at St. Andrew's Day Dinner on 30th November, 1933, which must have heartened every one. I do not want to read the whole of the speech but would, by your leave, Sir, read only a few lines. His Excellency says, "We are convinced of the necessity of making a sustained effort——

Mr. SHANTI SHEKHARESWAR RAY: Is the Hon'ble Minister in order to refer to the speech of His Excellency the Governor at St. Andrew's Dinner and if so, whether we too shall be entitled to discuss that speech on the floor of the House?

Mr. PRESIDENT: I think the Hon'ble Minister is quite within his rights. There can be no objection to his reading out a few lines from His Excellency's speech. If you find it necessary to comment on the policy underlying those lines, you may do so, taking it as the policy of Government as a whole. If you do so in the proper manner, you will not be restrained under section 14(2)(iv).

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: "We are convinced of the necessity of making a sustained effort to solve the problem of the reorganisation of the rural economy of the province; we are convinced that such an effort must be made, and we are determined that it shall be made. We are satisfied that in that direction only its salvation lies. Agriculture is, and must always be, our main-stay in Bengal, and we need a recovery plan here as sorely as any country or state in the world. It is on agriculture—our stable industry—that we must concentrate."

The constructive suggestions to which His Excellency refers embrace the establishment of a sound system of agricultural finance in the interest not only of the tenant merely but all who constitute the fabric of rural society; the establishment of a system of land mortgage banks; a comprehensive scheme of debt conciliation with which might be coupled provisions on the lines contemplated by the Indian Banking Inquiry Committee for compulsory adjustment of accumulated debt and a rural insolvency procedure of simple form. And His Excellency concluded his address by assuring that Government will find the money that will be required for any advance on these lines. His Excellency with his characteristic energy has since then left no stone unturned to push on this policy. The speech was followed immediately by the constitution of a Board of Economic Inquiry in pursuance of that policy, and a Development Commissioner is being appointed to co-ordinate all these activities which will be elements of a single plan.

I have every confidence that the House will thus appreciate that the Government of Bengal have been doing all that they could to deal with the present situation; and that the matter is engaging the constant and anxious attention of His Excellency personally and of his Government.

I shall not encroach any further on the time of the House, especially as some of my hon'ble colleagues will speak after me on this resolution.

Mr. P. BANERJI: I had no mind to take part in this debate on account of ill health but for certain remarks made by the Hon'ble Minister this afternoon, and for the straight talks that have come from my friend Maulvi Tamizuddin Khan. Sir, never before did we hear such a straight speech from Maulvi Tamizuddin Khan and I do not know whether it is due to the disappointment of the New Year. However, I hope that he will continue his straight talks in this way.

Sir, Maulvi Tamizuddin Khan has rightly pointed out that Dr. Naresh Chandra Sen Gupta had no business to congratulate and pass remarks on the speech that was delivered by the mover, Rai Satyendra Kumar Das Bahadur. Rather I would congratulate the other Rai Bahadur who has anticipated all sorts of actions and with reference to this motion in particular he was very confident of success and was also convinced of the sincerity of Government, although we are not at all aware of the personnel of the Committee.

With reference to the speech delivered just now by Nawab Musharruf Hosain, the tea magnate behind me, I must say that he forgets why he is going to have a boom in the tea market in a week's time. This is due to the fact that 96 *per cent.* of the interest in tea belongs to foreigners, I mean, the Britishers, and it is due to that fact that the Britishers interested in tea when they found that the price of tea was going down approached the Government of India, and, as you are all aware, in a week's time Government passed a Bill in the Legislative Assembly, called the Tea Restriction Act, so that the price of tea has gone up from 3 to 4 annas to 8 to 9 annas, with the consequence that there will be no loss in this trade in 1933. But the Nawab Sahib also forgets that these Britishers are not interested in the economic—I say this without fear of contradiction—they are not interested in the economic reconstruction of this province. We have been told that a Committee has been appointed or will be appointed and then they will do their duty, but may I ask if it requires the appointment of a Committee at all to raise the price of jute or paddy in this country? It does not. There is a Minister in charge of the portfolio of Agriculture and Industries and may I inquire of the Minister what he has done in spite of the fat salaries paid to him and his Secretary? It may be that the Government is going to do its duty, but may I inquire what the Government did so long? Because Government is going to do certain things, because it has made some gesture, therefore, it seems that everyone must feel flattered, but what about the past mismanagement of the State? What is the position of Government? There is a deficit from year to year, and the budget has got to be balanced. Something has to be done to that end, but when the budget is actually balanced, what will the Finance Member do? The reserved side will swallow 50 *per cent.* of the loaf and only a few crumbs will be thrown to Sir Bijoy Prasad Singh Roy and the Nawab Sahib. That is the position. Because a lakh of rupees was granted to him last year, the Nawab Sahib felt very jubilant and some member congratulated him. This year too he has got a lakh and a half. But may I inquire what he can do with only a lakh and a half for the economic development of the country? It is absolutely nothing. Now, Sir, the Committee if appointed will need some amount of money and energy. But the result will be, as already stated by Maulvi Tamizuddin Khan, that the

whole thing will be shelved. The whole thing will end in a fiasco and nothing tangible will be done. The poor agriculturists for whom the Government pretends to show so much solicitude will remain where they are. The other day His Excellency the Governor said that, India being mainly an agricultural country, improvement of agriculture must be made. He said this at a Scotch dinner party. The agricultural development is to be left to the people of the country, while the industrial development is to be left to the Scotch people—especially the jute trade. Therefore, if the Minister follows the advice of His Excellency then he should try to devote his whole time to agriculture. It has been said that 50 centrifugal machines have been secured by the department. People like Messrs. Begg Sutherland & Co., own very big factories; these machines are mere toys in comparison with those owned by the company. Government is trying to educate the people for the cultivation of sugarcane. These sugarcanes are sold to factories and if according to the advice of the Nawab Sahib they go on increasing the production of sugarcane the result will be that for want of money their sugarcane will be marketed for big mills only. In Bengal you cannot find any sugar factory. In Jessore there were some factories but on account of foreign competition those factories had to close down. It has been suggested by Mr. J. N. Gupta that the economic expansion has been neglected so long. I see it from another standpoint. I say that it is absolute exploitation that is going on. The Nawab Bahadur spoke of the independent Britishers. Well, Sir, they are not here now, they feel more interest for the Test Match than for this debate. They are the supporters of Government and whatever they will dictate Government will do. Government is always ready to adjudicate in favour of the Bengal Chamber of Commerce. That being the position we should try to help ourselves. God helps those who help themselves. Therefore, in order to do that we have to create a public opinion. The Rai Bahadurs and Khan Bahadurs who always support Government should not forget that this Government has always neglected the economic expansion of the country.

Then, Sir, when Government came to deal with the recommendations of a Committee, there is the complaint about lack of funds. May I inquire where will the money come from? Somebody remarks sarcastically that State Lottery Bill will bring in money. Well, Sir, if I can indulge in a bit of prophecy, I say that very soon England will have a State Lottery Bill, and if the Government is sincere in their desire to help in the economic expansion of the country, they will surely support my Bill. There lies the salvation of the country.

The Hon'ble Mr. J. A. WOODHEAD: I will not detain the House long but I should likely to say a few words on this resolution. Mr. P. Banerji maintained that Government are not interested in the economic

condition of the province. Sir, I deny that charge entirely. Government are interested and deeply interested in the improvement of the economic condition of the province. (Mr. P. BANERJI: I am glad to hear that.) Another speaker, Maulvi Tamizuddin Khan, suggested that Government should be particularly active; but unfortunately he did not suggest how they should be active. But, Sir, Government have been active, they certainly have not been quiescent. If I may repeat, might I just summarise what the Hon'ble Minister said as regards what Government have done and intend to do? Endeavour has been made through demonstration parties in regard to cottage industries to open up new avenues of employment for *bhadralok* youths. Those demonstration parties alone will not afford a complete solution of the problem of unemployment among the middle-classes in Bengal, but it is hoped that they will show the way by which a considerable number of that class may be able, by directing their energies into new lines, to maintain themselves in a certain degree of comfort.

Sugar, thanks to a protective duty, is to-day an article of considerable importance to the agriculturist in India. The production of sugar has expanded enormously in Bihar, the United Provinces and the Punjab. Although not to anything like the same extent it has also expanded here in Bengal and with the object of assisting the establishment of not large factories but smaller units Government have erected and are operating a small factory at Rajshahi; there is also another small demonstration factory at Berhampore which it is hoped to improve in the coming year. Further investigations are being made with the object of improving the rice crop and the Hon'ble Minister has been successful in obtaining Rs. 1,50,000 from the Imperial Council of Agricultural Research to assist in making those experiments. Then, Sir, Government have decided to start an experiment in land mortgage banks. That was the recommendation, I believe, of both the Provincial Banking Inquiry Committee as well as the Central Banking Inquiry Committee. It is recognised that it is only an experiment but it is wise to experiment before attempting to launch out in a large scale. Then Government have decided to appoint, and I hope the Board will be constituted at an early date, a Board of Economic Inquiry to investigate and advise Government on the numerous economic problems which face us in Bengal and they have further decided to appoint a Development Commissioner.

That, Sir, I think, is not a bad record, and we are grateful that several speakers to-day have acknowledged that Government have been active. Government are deeply interested in the matter and are making every endeavour to solve the numerous problems which face them.

Reference has been made to commodity prices and I believe one speaker said, if the price of jute could be raised, all would be well with

the Province. Jute certainly is the most important money crop in Bengal and all will agree that the prosperity of the Province depends largely upon the price of jute. But, Sir, although jute is of great importance it is not all in all. For, I believe I am correct in saying that three-fourths of the area under crops in Bengal is under rice. Although the price of rice is not so important as the price of jute, it is an important factor which we cannot omit from consideration altogether.

There is general agreement that the chief problem which faces not only Bengal but the whole world to-day is the problem of prices. If the prices of primary commodities can be raised to the level at which they stood before the crash of September, 1929, a very large number—in fact almost all—of our problems will be solved.

It is a truism to say that solution of the present difficulties of the world lies in an increase in the general price level. On that I think everybody is agreed, but agreement disappears immediately you start to examine the methods by which prices can be increased. During the last four years experts throughout the world, and not only experts but politicians, have been engaged in endeavouring to find a remedy by which prices can be raised but so far without success. The history of the attempts made to obtain international co-operation for the solution of this problem of prices indicates only too clearly the wide gulf which separated the contesting views. The greatest attempt to obtain co-operation in the international sphere was made at the World Economic Conference which met in London in June of last year. Unfortunately, that Conference failed and for the time being international endeavour to raise the prices of commodities has been suspended. The President of the United States of America is now engaged on a tremendous experiment. Whether that experiment will succeed or not, it is at present impossible to say, but one thing is clear and that is this. So far as that experiment is concerned, although apparently it is to involve America in a deficit of £1,200 millions in the present year—I would ask the House to ponder over this deficit, it is equivalent to Rs. 1,600 crores—it has not as yet succeeded in raising the prices of primary commodities. I wish the Provincial Government could do something to raise the prices of these commodities. The Report of the Jute Committee may throw some light on the subject so far as jute is concerned, but I myself am doubtful whether it is within the power of a Provincial Government to do much to raise the prices of agricultural commodities. That, Sir, is I think, all that I have to say. I would only once again impress upon the House that Government are deeply concerned with the economic condition of the province and that they will make every endeavour and do everything they can to improve the economic position. If I may issue a word of warning, it is the danger of hasty action. And

in that connection I would refer to what happened in Roumania. Roumania was faced with the very difficult problem of rural indebtedness and a law was passed which reduced at a stroke the debt of the agricultural population. The immediate effect was to dry up agricultural credit; the creditors refused to lend. The Roumanian experiment shows the need for careful consideration.. Any action we take, particularly in regard to the difficult problem of rural indebtedness, must be after careful inquiry and examination. I do desire to stress the importance of not proceeding hastily; it is essential that the measures it is proposed to adopt should have a reasonable chance of success.

Sir, might I in conclusion suggest to the hon'ble mover that in view of what has been said not only by myself but also by the Hon'ble Minister he should withdraw his resolution. He may rest assured that Government are deeply interested in the economic condition of the province and that they will make every endeavour to improve that condition.

The Hon'ble Sir PROVASH CHUNDER MITTER: Sir, before I deal with some of the points raised in the debate, I would begin by clearing up some of the doubts that have been expressed. One doubt that has been expressed is whether the Money-lenders Act that has been passed by the House will be shelved. I can assure the House that it will not be shelved. I could have given a date on which it would be brought into operation, but unfortunately owing to the absence of Mr. Reid on account of his illness it is not possible for me to do so, but I think I can definitely tell the House that it will not be shelved. Another point that has been raised by Babu Jatindra Nath Basu is that the United Provinces Minister told him or his friend that nothing would be done as a result of the inquiry. Perhaps the United Provinces Minister did not do us the courtesy of perusing what was announced on behalf of the Government of Bengal. On that point I desire to clear up another doubt, and that is that the Government's intention is to appoint a committee of inquiry whose business will be to examine and formulate into schemes concrete proposals and not to hold a laborious and roving inquiry. Maulvi Tamizuddin Khan has said that whenever Government want to shelve anything, they appoint a Committee. But the announcement made by the Government of Bengal was this: "As a first step to facilitate co-operation between Government and outside opinion a Board of Economic Inquiry will forthwith be set up and Government will make themselves responsible for putting before the Board concrete suggestions in broad outline—not a cut and dried scheme, and there would be plenty of scope for adjustment and elaboration: but the outline of a constructive policy which the inquiries already made by Government suggest may

present a sound line of advance." I may assure the House that Government have not been idle but have already made a number of inquiries and collected important materials. From these inquiries and materials Government are preparing some concrete suggestions in broad outline for placing before the Board. I submit that a procedure such as this is likely to produce earlier action and to yield much better results than those from the proposals in the Bills that are being considered by other Governments, but I will not go into that. Before we can find a remedy, let us keep in our mind the facts which we all know but which we are sometimes apt to ignore or forget. The first undisputed fact is that there is depression and fall of prices due to world conditions. The question is often put, supposing world conditions do not improve, are we to sit idle with folded hands? The reply of Government is an emphatic "No". But at the same time the reply of Government is that we cannot ignore realities and it will be futile and foolish to ignore the world depression. We must take this existing factor into consideration. If world conditions do not improve, taking that as an existing factor, what can we do? That must be the question to which every patriotic Indian must apply his mind—it will not perhaps appeal to that type of patriots who think that their patriotic duties are finished by merely criticising Government —but it will certainly appeal to their larger numbers who desire to advance national interests and it is a patent fact that the uplift of the masses mean the true advancement of national interests. Now, what are the possibilities that can help the masses? Helping the masses means helping the classes and every individual in the structure of society in the province and many beyond the province, and incidentally it would also help this much maligned Government. Therefore, I would proceed on the basis that if world conditions improve, well and good—we shall be happy—but supposing world conditions do not improve, what can we do? As a matter of reality we must also admit that even if world conditions improve we may do a great deal, for we cannot bring back the old state of things, we cannot wipe out in a day the effect, the acute depression extending over a period of 3 years or more. Now what is the position? Before the economic depression the agriculturists' main income was from rice and jute. The total value of rice was Rs. 1,81,89,00,000 and the total value of jute was somewhere about Rs. 40 crores. About rice we are on firmer grounds, because we have price lists published from 1887. We have also other statistical information about it. About jute, if our problem be as it should be to find out the value of jute to the *raiyat* at or near the field, we have to work back the figures from the more reliable figures obtaining in the port towns. I may, however, say that the figure of Rs. 40 crores is a fair and good estimate. Out of Bengal's cropped area, about 34,000 square miles are under paddy and only about 3,000 square miles under jute. We all admit that jute is a very important crop,

because that is a money crop. From the figures it appears that the *raiyats* get 181 crores from rice, but they get far less from jute. In normal times the *raiyats* make about 60 crores from various minor crops. The prices of all these commodities have fallen. The value of rice after depression is about 90 crores, of jute between 13 to 18 crores. The value of minor crops has also fallen seriously. Therefore, we are met with this patent fact, *viz.*, that the total value of agricultural produce to the *raiyat* has gone down by about one-half of its previous value. But if you compare the values of rice to-day with its value in pre-war days—any hon'ble member can examine the figures of rice from the statistics published in the Gazette—you will find that the price of rice to-day is not lower than the price obtaining, say, in 1906—and rice is the most important crop—although the present price of rice is not perhaps as low as that of 1906, yet when the price of rice was high the *raiyat* had naturally adjusted his mode of living to that higher price, and the sudden fall in prices makes it difficult for the *raiyat*, and just as it makes it difficult for my *zamindar* friend Kumar Shanti Shekhareswar Ray, to adjust his expenses, the poor *raiyat* finds it more difficult. Kumar Shanti Shekhareswar Ray has a good deal of latent resources, but the poor agriculturist, tilling the soil, has not much of latent resources. But the most hopeful sign of the time is that every one, the *raiyat*, the *zamindar*, the tenure-holder, the trader, the business man, forced by circumstances, has been trying to adjust himself. That is a factor which must in time assert itself. Another important factor just mentioned is that according to the Bengal Provincial Banking Inquiry Committee the total rural indebtedness was 100 crores. The report was published in 1928-29 and they are, therefore, working on the figures of 1927 and earlier years. In those days prices were fairly high and our subsequent inquiries show that the *raiyat* has not paid or could not pay the interest whether of private *mahajans*, or co-operative societies. They paid a little, and practically payment of principal was very small. Therefore, that 100 crores must have amounted to 140 or 150 crores. If you assume that rate of interest of the rural debtor, if reduced to simple interest, is something like 30 to 36 *per cent.* then his total indebtedness must be 140 to 150 crores to-day. The interest which the *raiyat* is liable to pay is therefore about 40 to 50 crores annually. The estimated rental of the occupancy *raiyat* for the whole province is about 8 to 9 crores annually as against 40 to 50 crores of annual liability to pay interest on debt. If you can lower the burden of the *raiyat* from this heavy liability of debt and interest you will go a long way in saving him. If you can save the *raiyat* from this burden you will have solved a crucial point in the problem of uplifting the masses. The point is how to do it. It is easy to deliver platform speeches, or to write glib articles in the newspapers, but remember you are dealing with 46 millions of people; if you can really reduce your theories into practice you will relieve thousands of

poor and ignorant people. But there is another factor which you cannot ignore, unfortunately there are many parasites abroad who are only too anxious to make, if not an honest penny, a dishonest penny out of the necessities of these poor people, and will at the same time make beautiful platform speeches. We must, therefore, make intensive practical inquiries, and I can assure the members of this House that Government has been addressing itself with great assiduity during the last few months to these inquiries. Incidentally I may observe that the Hon'ble Mr. Woodhead's reference to the Roumanian problem will show that he considered what has been done in other countries. We have considered what has been done in Australia—nearer home, in India, the United Provinces, the Punjab and Madras—these inquiries on behalf of Government will, I hope, help in formulating constructive suggestions. It was also definitely stated on behalf of Government that money will be found. If this most difficult problem which nations far wealthier and better organised than we are, who are knit together by a common purpose and where disruptic forces have not made joint action so difficult, if those nations found it so difficult our difficulties are patent but we must not be disheartened.

The Member here reached his time-limit. He was allowed a further few minutes.

.....Before I sit down, may I make one appeal to you? If you want to improve the economic condition of your country, we must work together, you must co-operate and join hands with Government, however, bad or useless, Government may be, according to the opinion of some, according to Mr. P. Banerji and the other interrupters like him of Mr. Shanti Shekhareswar Ray or Dr. Sen Gupta. Government may be a bad one, but it is—then, take it as an existing fact—I was going to appeal to all to join hands; it is only by united effort, by common effort that this problem can be solved. Government are trying by comprehensive and persistent effort to help in the solution of the problem and to organise the resources of the province, and it is only by officials and non-officials working together that anything like an effective move can be undertaken.

Mr. P. BANERJI: Able officials?

Rai Bahadur SATYENDRA KUMAR DAS: After the assurance given by the Hon'ble Member, I beg leave to withdraw my motion.

The motion was by leave of the House withdrawn.

Adjournment.

The Council was then adjourned till 2-15 p.m. on Tuesday, the 9th January, 1934, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Tuesday, the 9th January, 1934, at 2-15 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh), in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers, and 91 nominated and elected members.

UNSTARRED QUESTION

(answer to which was laid on the table)

Process-serving establishment.

3. **Babu NAGENDRA NARAYAN RAY:** (*a*) Will the Hon'ble Member in charge of the Judicial Department be pleased to state whether it is a fact that a Judicial officer was engaged in investigating the affairs of the process-serving establishment in Bengal, during the latter part of the year 1933?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state whether the said officer has submitted his report as yet?

(*c*) If the report has been submitted, will the Hon'ble Member be pleased to lay on the table a copy of the said report?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*a*) Yes.

(*b*) No.

(*c*) Does not arise.

Babu HEM CHANDRA ROY CHOUDHURI: Will the Hon'ble Member or the Secretary in charge of the Department be pleased to state whether the scope of inquiry included the question of their pension as well as scales of pay?

Mr. N. G. A. EDGLEY: It has nothing to do with the scales of pay.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Honourable Member be pleased to state whether the inquiry was undertaken at the instance of Government, and also what were the terms of reference?

Mr. N. G. A. EDGLEY: The inquiry was undertaken at the instance of Government, and the main ground of reference was to decide on, and report as regards, the scales of pay on which process-servers are employed.

LEGISLATIVE BUSINESS

GOVERNMENT BILLS.

The Bengal Muhammadan Marriages and Divorces Registration (Amendment) Bill, 1923.

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Sir, I beg to introduce a Bill further to amend the Bengal Muhammadan Marriages and Divorces Registration Act, 1876.

The Secretary then read the short title of the Bill.

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Sir, I beg to move that the said Bill be referred to a Select Committee consisting of—

(1) Khan Bahadur Nawab Musharruf Hosain,
(2) Maulvi Tamizuddin Khan,
(3) Mr. H. S. Suhrawardy,
(4) Khan Bahadur Nawabzada Khwaja Muhammad Afzal,
(5) Khan Bahadur Maulvi Muazzam Ali Khan,
(6) Khan Sahib Maulvi Mohammed Basir Uddin,
(7) Haji Badi Ahmed Chowdhury,

(8) Maulvi Nur Rahman Khan Eusufji,

(9) Kazi Emdadul Hoque,

(10) Maulvi Abul Quasem,

(11) Babu Satish Chandra Ray Chowdhury,

(12) Mr. H. R. Wilkinson, and

(13) the mover,

with instruction to submit their report as soon as possible and that the number of members whose presence shall be necessary to constitute a quorum shall be six.

The motion was put and agreed to.

The Bengal Public Demands Recovery (Amendment), Bill, 1933.

The Hon'ble Sir PROVASH CHUNDER MITTER: Sir, I beg to introduce a Bill further to amend the Bengal Public Demands Recovery Act, 1933.

The Secretary then read the short title of the Bill.

The Hon'ble Sir PROVASH CHUNDER MITTER: Sir, I beg to move that the said Bill be taken into consideration.

The motion that the Bill be taken into consideration was put and agreed to.

Clause 1.

Mr. G. G. HOOPER: Sir, with your permission, I should like to move a short notice amendment. It is that in clause 1 of the Bill the figure "1934" be substituted for the figure "1933".

The motion was put and agreed to.

Mr. PRESIDENT: The question before the House is that clause I, as amended, stand part of the Bill.

The motion was put and agreed to.

Clause 2.

Mr. PRESIDENT: The question before
2 stand part of the Bill.

The motion was put and agreed to.

Preamble.

Mr. PRESIDENT: The question before the House is that the preamble stand part of the Bill.

The motion was put and agreed to.

The Hon'ble Sir PROVASH CHUNDER MITTER: I beg to move that the Bill, as settled in Council, be passed.

The motion was put and agreed to.

The Licensed Warehouse and Fire-Brigade (Amendment) Bill, 1933.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to introduce a Bill further to amend the Licensed Warehouse and Fire-Brigade Act, 1893.

The Secretary then read the short title of the Bill.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to move that the said Bill be taken into consideration.

The motion was put and agreed to.

Clause 1.

Mr. C. C. HOOPER: Sir, with your permission, I should like to move a short notice amendment. It is that, in clause 1, the figure "1934" be substituted for the figure "1933".

The motion was put and agreed to.

Mr. PRESIDENT: The question before the House is that clause 1, as amended, stand part of the Bill.

The motion was put and agreed to.

Clause 2.

Mr. PRESIDENT: The question before the House is that clause 2 stand part of the Bill.

The motion was put and agreed to.

Preamble.

Mr. PRESIDENT: The question before the House is that the preamble stand part of the Bill.

The motion was put and agreed to.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to move that the Bill, as settled in Council, be passed.

The motion was put and agreed to.

The Land Acquisition (Bengal Amendment) Bill, 1933.

The Hon'ble Sir PROVASH CHUNDER MITTER: Sir, I have the melancholy duty of informing you that the Hon'ble Mr. Reid is unfortunately indisposed and is unable to introduce the Land Acquisition (Bengal Amendment) Bill, 1933, standing in his name. So, I beg leave of you, Sir, to move the said Bill, on his behalf.

(The Hon'ble the President signified his permission.)

The Hon'ble Sir PROVASH CHUNDER MITTER: Sir, I beg to introduce a Bill further to amend the Land Acquisition Act, 1894.

The Secretary then read the short title of the Bill.

The Hon'ble Sir PROVASH CHUNDER MITTER: Sir, I beg to move that the said Bill be taken into consideration.

In doing so, I should like to point out that the Bill is a short one, and that the third clause of the Bill explains the position. It says: "the expression 'Court' means a principal Civil Court of original jurisdiction, and includes the Court of any Additional Judge, Subordinate Judge, or Munsif whom the Local Government may appoint, by name or by virtue of his office, to perform, concurrently with any such principal Civil Court, all or any of the functions of the Court under this Act within any specified local limits"—I would draw special attention to the words "specified local limits"—"and, in the case of a Munsif, up to the limits of the pecuniary jurisdiction with which he is vested under section 19 of the Bengal, Agra and Assam Civil Courts Act, 1887."

The Statement of Objects and Reasons explains the real reason of this Bill. The Civil Justice Committee in Chapter VII of their Report recommended the adoption of measures for affording some relief to

District Judges in respect of their functions under the Land Acquisition Act, 1894. Difficulty has been experienced in giving effect to this recommendation owing to certain doubts that have arisen as to the correct interpretation of section 3 (*d*) of the Act. This Bill has been framed in order to remove this difficulty. But, apart from that difficulty, there is another point, viz., in petty cases of a value of, say, Rs. 300 or Rs. 400, where the party wants to make a reference to a "Special Judge" the hearing of that reference by the Munsif would be cheaper for him and will be more expeditious. Sir, it is a non-controversial measure, and I hope the Council will agree to its passing.

Maulvi ABUL QUASEM: Sir, I beg to move that the Bill be circulated for the purpose of eliciting opinion thereon before the 30th June, 1934.

Sir, apparently, it seems to be an innocuous measure. It is designed to relieve pressure on the files of the District Judges, but I submit that the convenience of the public has also got to be taken into consideration. Under the Land Acquisition Act, the preliminary and principal proceedings have to be taken before the Collector at the district headquarters and where the parties disagree about valuation or apportionment they have to ask for a reference to the District Judge. The proposed provision would no doubt save them a lot of trouble in coming to the headquarters. I think, Sir, that such relief should also be afforded to them in connection with the proceedings before the Collector and that Deputy Collectors and Sub-Deputy Collectors at Subdivisional headquarters should be vested with requisite powers in appropriate cases. That would make the Bill really comprehensive and helpful alike to the public and the District Judges. The deficiency in the Bill appears to me to be a serious one and I think that the public should be allowed an opportunity to express their opinion. This is the reason, Sir, why I feel that this Bill should be circulated for eliciting opinion.

The Hon'ble Sir PROVASH CHUNDER MITTER: Sir, I understand my friend's principal objection is that we should also have looked into the difficulties of the litigants about appearing before the Collector. Supposing we do not remove that difficulty, I would point out to him that we are removing the difficulties at the Reference stage and I would also ask him to remember that "half of a loaf is better than no bread." My friend has overlooked this aspect of the case. I submit, Sir, that, ordinarily, in a district where land acquisition operations are taken up, only one Land Acquisition Collector deals with Land Acquisition cases of the whole district. If we have two

wholetime Land Acquisition Collectors invested with powers in different local areas, it would be more expensive to the tax-payer and, incidentally, that would be more expensive to local bodies or concerns who want to acquire lands. These concerns and local bodies are not the "Local Government." But I would meet my friend's point by his own argument. I say that if he is dissatisfied with the Collector's award, he can get quicker and cheaper justice. I hope, Sir, that after this explanation of mine, my friend will see his way to withdraw his amendment.

The amendment was, by leave of the House, withdrawn.

The motion that the Bill be taken into consideration was then put and agreed to.

Clause 1.

Mr. C. C. HOOPER: Sir, may I have your permission to move that in sub-clause (*1*) of clause 1 for the figure "1933" the figure "1934" be substituted.

The motion was put and agreed to.

Mr. PRESIDENT: The question before the House is that clause 1, as amended, stand part of the Bill.

The motion was put and agreed to.

Clause 2.

Mr. PRESIDENT: The question before the House is that clause 2 stand part of the Bill.

The motion was put and agreed to.

Clause 3.

Mr. PRESIDENT: The question before the House is that clause 3 stand part of the Bill.

The motion was put and agreed to.

Preamble.

Mr. PRESIDENT: The question before the House is that the preamble stand part of the Bill.

The motion was put and agreed to.

The Hon'ble Sir PROVASH CHUNDER MITTER: Sir, I beg to move that the Bill, as settled in Council, be passed.

The motion was put and agreed to.

The Hon'ble Sir PROVASH CHUNDER MITTER: May I, Sir, make a submission to you?

Mr. PRESIDENT: What is it, Sir Provash?

The Hon'ble Sir PROVASH CHUNDER MITTER: As I have already said, the Hon'ble Mr. Reid is ill, and it is unlikely that he will be able to come to this House to pilot the Bengal Nurses Bill, 1933, which stands in his name. I submit, Sir, that I am not familiar with the subject. The Hon'ble Mr. Reid may, however, turn up later on In the meantime we are ready with the Court-fees (Bengal Amendment) Bill, 1933. I am also ready with the Bengal Alluvial Lands (Amendment) Bill, 1933. With your permission, Sir, we should like to postpone the consideration of the Bengal Nurses Bill, 1933, and proceed with the next Bill, which Mr. Edgley will move.

Mr. PRESIDENT: I am very sorry, Sir Provash, to hear of the illness of the Hon'ble Mr. Reid. I hope he will be all right very soon. I have no objection to postpone the item and take up the next one. I call upon Mr. Edgley to introduce the Court-fees (Bengal Amendment) Bill, 1933.

The Court-fees (Bengal Amendment) Bill, 1933.

Mr. N. C. A. EDGLEY: Sir, I beg leave to introduce a Bill further to amend the Court-fees Act, 1870.

The motion was put and agreed to.

The Secretary then read the short title of the Bill.

Mr. N. C. A. EDGLEY: Sir, this is a Bill to which Government——

Mr. PRESIDENT: Will you please move the next motion formally?

Mr. N. C. A. EDGLEY: Sir, I beg to move that the Bill be circulated for the purpose of eliciting opinion thereon before the 28th February, 1934.

Sir, I have been saying, this is a Bill to which Government attach considerable importance. It is not primarily a measure to increase the rate of taxation under the Court-fees Act. Its primary purpose is to prevent the evasion of the payment of revenue. It is a Bill which, as will be appreciated, has caused a good deal of difficulty as regards drafting, and it is further complicated as regards many of its provisions. Government, therefore, desire that, although they have consulted District Judges throughout in connection with the drafting of this Bill —and District Judges are generally in favour of its provisions—they desire that as much publicity as possible should be given to this Bill and that it should be circulated for opinion to such associations and public bodies as may be in a position to give advice as regards its provisions.

It has been recognised for a great many years that the Court-fees Act of 1870 requires very drastic amendment in certain particulars. It will be remembered that the Indian Taxation Inquiry Committee, when they sat in the years 1924-1925, drew attention to a great many anomalies with reference to the present Act. In fact, they pointed out that in certain respects the provisions of the Act as they stand resulted in a *reductio ad absurdum*. Many High Courts have also drawn attention to the defective language of the Act, and it will be remembered, in particular, that in the years 1924-25 the Patna and the Allahabad High Courts had a great deal to say with regard to this matter. The main and the most important provision of the Bill, it will be seen, is clause 9. That is the clause under which it is proposed to provide some sort of machinery in order to check, as far as possible, under-valuation. In 1931, after Government had considered for some time the question of the evasion of the payment of stamp fees and the court-fee revenue, they decided to institute an inquiry and wrote round to the various District Judges asking them to take a certain number of title suits at random and to send the schedules of the property in these title suits to Collectors, in order that the Collectors, after such local inquiry as they considered necessary, might check the valuation and report what the correct valuation was. They found that in no less than 85 *per cent.* of these suits relating to land, an attempt had obviously been made to defraud the public revenue. I

need only refer to one of these cases—a suit in the Dacca district. To the best of my recollection the subject matter was valued in the plaint at Rs. 2,025. When the proper valuation was ascertained after the Collector's inquiry it was found that the proper valuation of this particular suit was more than Rs. 1,36,000. That is not an uncommon case and from this it will be appreciated that the extent to which the public revenue is being defrauded is very large.

In 1870 under the Court-fees Act it was decided by the legislature that Government should be entitled to realise court-fees at a certain rate. It may therefore be regarded as settled that a tax on litigation is a legitimate source of revenue, and the House will appreciate that it is demoralising that, once the legislature has decided that a tax should be levied at a certain rate, an opportunity should be given to dishonest persons to evade that particular form of taxation.

As regards the present provisions of the Act of 1870, it will appear that the legislature, while deciding that court-fees should be levied at a certain rate, also decided that certain fiscal duties should be imposed upon judicial officers, but the method under which those duties are to be performed has been left extremely vague. Further, it will be remembered that the most important sections of the present Act under which deficit court-fees can be realised are sections 9 and 12. The process is rather cumbrous and unsatisfactory. As regards section 9 of the Court-fees Act, it has to all intents and purposes become almost a dead letter, because in a recent judgment of the Calcutta High Court—I think it was Jalika Bibi's case—it was held that the costs of inquiry could not be realised.

As regards section 12 the language of that section seems to imply that it should be left to the parties concerned to raise an issue on the question of valuation if they wish to do so.

As regards clause 9 of the present Bill, it will be seen that, under section 8B, it is proposed that the court should come to a finding on the question of valuation. The object of that section is to draw the attention of the court to this matter. As things stand at present, this matter is very largely left to the ideas and idiosyncracies of the individual judicial officers concerned. What we want is that the court should direct its attention to this matter.

Then there are certain other sections which provide that, in suitable cases, an inquiry shall be made. In the ordinary course of events the District Judge or the judicial officer concerned will be authorised to hold a summary inquiry as regards the court-fees to be levied under the Act. With regard to the more complicated cases, you will see that there is a provision for reference to the Collector. It is not anticipated that there will be such references in many cases; ordinarily

the court will be able to decide these matters under the provisions of this Bill and under the rules which will be framed thereunder. There are some cases however in which it will be useful to invoke the aid of the Collector but it will be seen that ultimate responsibility rests with the court. The Collector's services will be used to a very large extent in the capacity of a Civil Court Commissioner and there is provision for an application for revision from the Collector to the court, and it is the court which ultimately has to come to a finding with regard to this matter.

Another section of the Bill to which I may draw your attention is section 8D of clause 9. The language of that section is sufficiently wide to provide for the recovery of insufficient court-fees in ordinary cases and also to enable the court to recover deficit court-fees in cases which have already been disposed of. Members of this Council will remember that, during the last session, it came to their notice that the District Judge of Noakhali had discovered a number of defalcations in connection with civil suits after the records had been transferred to the record room. The law as it stands makes it extremely difficult and in most cases almost impossible, to recover deficits which come to the notice of the court at that time. The Indian Taxation Inquiry Committee pointed out that the absence of any power to recover deficits of this kind constituted a very serious defect in the Act as it stood.

Section 8J of clause 9 is not a particularly important section, but as it may be misunderstood, I venture to explain what it really means. As things stand at present, questions relating to court-fee matters are examined by officers like sheristadars and auditors who may be appointed from time to time by Government. The functions of these officers depend not upon statute but upon convention. It was, therefore, thought desirable that they should be given statutory recognition, and that Government should be empowered by definite rules to prescribe the manner in which they should exercise their functions.

Section 8K of clause 9 is a clause of some importance. Many members of this House who are lawyers will remember that for a good many years, matters relating to court-fees in civil suits were checked in the courts in which the suits were filed with reference to certain suit-valuation charts. These suit-valuation charts were used satisfactorily in several districts of this province but unfortunately we find that in Jalika Bibi's case, to which I have already referred, the High Court held that the use to which these charts might be put was of a very limited character. Government do not propose that, if these charts are legalised, they should be made presumptive evidence with regard to court-fee matters, but they do propose that these charts if introduced, should be taken into consideration and in any inquiry which may be made with regard to these matters they should be treated as items of evidence.

The r.....ng sections of the Bill are not as important as clause 9. I would, however, like to refer briefly to one or two provisions of clause 7. These provisions have been mainly introduced to remove certain anomalies, to which attention has been drawn either by the Indian Taxation Inquiry Committee or by other authorities. Take, for instance, sub-section (*2*) of clause 7. It is a matter of common experience that plaintiffs in civil suits frequently frame their suits in a declaratory form in order to evade the payment of court-fees. Also with regard to some other suits under sub-section (*iv*) of section 7 of the Court-fees Act there is a great deal of doubt as to whether or not the court can revise the valuation which has been put on the subject matter of the suit by the plaintiff. Attention has been drawn in the Statement of Objects and Reasons to two conflicting rulings on this point by the Calcutta High Court. I think it was Sir Lawrence Jenkins who drew attention to the undesirability of allowing parties to fix an arbitrary valuation on the subject matter of their suits, and it has also been held repeatedly by other judicial authorities that the valuation should be reasonable. It is therefore proposed to give the court power where an unreasonable valuation has been fixed to revise the valuation.

As regards sub-clause (*3*) of clause 7 it will be seen that Government propose that the valuation in suits relating to land should be according to the market value. This is mainly based upon the recommendation of the Indian Taxation Inquiry Committee. That Committee pointed out, for instance, that it may very likely happen that, if a suit is brought in respect of an entire estate a smaller court-fee might be payable than would be the case if a similar suit were brought in respect of, say, a few fields appertaining to that particular estate. That is an anomaly. With regard to Bengal it must be remembered that this is a permanently-settled province and it is unsuitable that the market value should be calculated in so many multiples of the land revenue when the land revenue has no relation whatsoever to the actual value of the land. Moreover, this is equitable because the rate of assessment in West Bengal is, I believe, very much higher than that in East Bengal. If the market value could be fixed according to rules framed by Government it might be possible to get rid of this anomaly without inflicting any hardship at all on the litigant.

A certain amount of attention has been directed to sub-clause (*5*) of clause 7, which relates to partition suits. As far as these suits are concerned, those members of the Council who are lawyers will remember that the majority of such suits that come before the civil courts are extremely complicated. In fact they are very much more complicated than ordinary title suits. I myself remember a number of such cases that went on for years and took up a great deal of the court's time. At present, partition suits can ordinarily be filed on payment of a

fee of Rs. 15. With regard to suits of this kind, it is reasonable that they should be filed with a court-fee on an *ad valorem* basis although possibly on a lower scale than the ordinary *ad valorem* fee.

Some of the other amendments proposed in this particular clause follow the lines of similar amendments which have been undertaken by the Madras Legislative Council and they are sufficiently explained in the Statement of Objects and Reasons.

As regards other clauses, I should like to draw attention to clause 16, Section 35. As regards this particular clause it will be seen that Government propose to take power to suspend the payment of court-fees in certain cases. At present they only have power to reduce or remit, and it was thought desirable to take this additional power under this clause in order to meet any particular cases of hardship which might be represented to Government on account of the economic depression or for other reasons. On the same point it will also be noticed that under clause 1, sub-clause (*3*), it is proposed that Government should have power to introduce the clauses of this Bill at different times by notification in the *Calcutta Gazette*. Some of the clauses of the Bill, if it is ultimately passed, it may be thought desirable, to bring into operation at once, others at a later stage.

I think most of the other clauses have been sufficiently explained in the Statement of Objects and Reasons but I should like to direct the attention of the House to clause 19, Article 22. This is a clause in which perhaps the members of this House may be interested because it relates to election petitions. Obviously the framers of the Act of 1870 did not insert any particular provision relating to such matters in the schedules because election petitions at that time were not of any particular importance. But these election petitions now take up a great deal of the time of the courts and it is thought that by subjecting such petitions to a reasonable fee frivolous petitions will be stopped and at the same time no undue hardship will be suffered by the petitioners.

Government would like to make it clear that after receiving the opinions of such associations, public bodies and other persons as may be consulted with regard to this Bill they will be perfectly prepared to reconsider this draft and to adopt such reasonable changes as may be considered necessary.

As I said at the beginning of my speech, this is a Bill to which Government attach considerable importance. They think that it provides reasonable provisions to check the fraudulent under-valuation in suits which is so prevalent and thereby prevent a very large leakage in the court-fee revenue on which the financial stability of this

Province very largely depends. With these words I ask that the House may agree to the Bill being circulated for eliciting public opinion.

Maulvi ABUL QUASEM: Sir, I beg to move that in the motion for circulation for the figures and word "28th February, 1934" the figures and word "30th June, 1934" be substituted.

Sir, it has already become apparent to the House that Government's intention to circulate the Bill is for the purpose of eliciting public opinion thereon. My motion has been tabled because the time mentioned in the Government motion is too short within which to consider the different clauses of the Bill and to formulate counter-proposals. To-day is the 9th of January and opinion is to be received by the 28th February. I think the procedure in these cases is that letters are sent out from the Council Department to different public bodies asking for their views on the provisions of the Bill and a copy of the Bill is also sent along with each letter. All this perhaps will also take up sometime and I think the actual time the different bodies would have for considering the provisions of the Bill would be less than a month. Sir, from the speech that Mr. Edgley has just delivered it seems that Government has been considering such a Bill for some time. They have had to consult the District Judges and other officers and then they have had to make up their minds and I believe that not simply months but years have been taken to formulate proposals embodied in this Bill. If Government has taken so much time to consider the different provisions of this Bill it is unreasonable to expect the public to study the Bill and formulate their opinions in the course of a month. That is why I have moved this motion for circulation of the Bill to elicit public opinion by the 30th June 1934. That date will give reasonable time to the public to make up their minds with regard to the provisions of the Bill. This Bill is a very serious one, entailing serious and far-reaching consequences to the litigant public. It concerns every section of the public. Sir, in this country justice is taxed already unduly. People have to purchase justice at an exhorbitant cost; particularly at this time of unheard of economic distress many people are prevented from seeking justice on account of the prohibitive cost involved.

It is said that the primary object of the Bill is to prevent evasion of the existing law rather than to get an increased revenue. But to my mind the real purpose is that more taxes could be raised from the Department of Justice. It is notorious that administration of justice yields more income than is required for administering the department. (Dr. Naresh Chandra Sen Gupta: Several times more.) I stand corrected. In this country, I think, I shall be quite correct in saying that sale and purchase of justice was something abhorrent to the

feelings of Hindus and Muslims during the rule of Hindu and Muslim Sovereigns. We are, however, under a different rule now. The people who are poor and cannot go through the whole gamut of courts of justice are in fact denied justice. Government have thought fit particularly at this time to bring forward this Bill to add to the burden of the people. I feel that this is pre-eminently a subject on which the public at the present time have got a right to formulate and voice their grievances after taking sufficient time. Government appear to be anxious to rush the Bill through in the present session and that explains why the date 28th February has been put in the motion by which opinions have got to be received by the Council Department. One thing among the provisions of this Bill strikes me and that is this. Many years ago Sir Ashutosh Mukherji gave a ruling that in certain cases where the parties had been given the liberty to fix the valuation the court had the inherent power to revise the valuation if it appeared unreasonable. Many years afterwards Chief Justice Rankin declared that the court was not competent to go behind the plaintiff's valuation and to revise it. In the year 1870 when the Court-fees Act was passed it was thought expedient that in certain matters people should be given the liberty to fix the valuation. Certainly it cannot be said that it was not in the view of the legislature when this particular Act was passed that in particular cases the privilege might be abused but to seek to practically take away the privilege because of its abuse in particular cases appears to me to be an uncalled-for and drastic revision of the Court-fees Act. No other province has made such a revision. Moreover, the machinery sought to be provided in the Act is beset with difficulties. The machinery that is being introduced for arriving at a correct valuation would simply prolong the time during which the case would hang fire. Already justice in this country takes too long a time to be administered, and this provision, if enacted, would further protract litigation. Another thing that strikes me is that such a right was given to the public for very good reasons. In the Registration Act the valuation in deeds and conveyances is put by the public and there is no provision for revision: there was a policy behind it which was just and wise. By a mere stroke of the legislature's pen this right which has been enjoyed by the public for over half a century is now being sought to be taken away. It is said that there is at present no such check on improper valuation. I do submit, Sir, that there is check. It is common experience that the defendant takes exception to improper valuation and payment of insufficient court-fee by the plaintiff and insists on the issue as regards valuation being tried before the trial of the suit is proceeded with on the merits. If in some cases the abuse is not prevented, that is no reason why the whole litigant public should be penalised. I am therefore strongly of opinion that the public should closely consider the provisions of the Bill and Government should give them ample

time to do so, so that the views that may be expressed may be really helpful to the Government as well as to the House to arrive at just and wise decisions.

Babu KHETTER MOHAN RAY: I beg to move that in the motion for circulation for the figures and word "28th February, 1934", the figures and word "30th March, 1934" be substituted.

At the outset I wish to say that I endorse every word which Maulvi Abul Quasem has said in moving his amendment.

At a time when the province is passing through acute economic distress, I doubt the expediency of raising revenue by increasing the scales of court-fees for civil suits. Already the number of civil suits and cases has enormously decreased. The reason for such decrease is not far to seek; the people stricken by the trade-depression are unable to pay court-fees. Poor people who have been dispossessed of lands are not able to seek remedy in the Civil Courts because they cannot pay the required court-fees. Over and above this state of things if the scales of court-fees are raised and various devices as proposed in the Bill for raising court-fees are resorted to, justice will be practically denied to the poor people. Now-a-days title suits which are generally instituted in the Civil Courts almost relate to the partition of *raiyati* lands amongst the heirs of deceased Mussalmans. According to the Muhammadan Law when a Mussalman dies, properties left by him are inherited by sons and daughters and wife. Daughters are generally married to different families and are under the control of their husbands. Sometimes properties are inherited by distant kindred from different families, and this class of heirs have no interest in maintaining the solidarity of the families; what they want is to have certain slices in the properties. These cases are very often incapable of amicable adjustment. Such cases often came before the Courts for decision. One effect of passing this Bill will be that those classes of heirs described above will be deprived of their inheritance. This Bill proposes to levy court-fees *ad valorem* on partition suits and also to raise court-fees on lands paying revenue or lands which are let out in *talooks* and other tenures. Government are going to introduce a new principle for valuation of these classes of land in order to raise court-fees in place of the existing law which has been working satisfactorily for upwards of 60 years. So far as I am aware of, in other provinces the principles of valuation of suits are those contained in the Court-fees Act, 1870.

I do not know whether any change has taken place in other provinces with respect to the valuation of suits. Government gives out that the primary object of the Bill is to check the evasion of law. But this law has been working satisfactorily for a long time. I do not know of any law which is not being evaded. I cannot think of any evasion. Why these drastic measures are proposed to be enacted in

order to prevent evasion of the Court-fees Act? Clause 9 lays down a procedure which a Court should take in order to ascertain the correctness of the valution of the suits. This procedure will itself give rise to several miscellaneous cases involving examination of witnesses and proof of documents. This means an amount of expenditure and labour which in good many cases will be equivalent to that which will be required to conduct these suits to a finish. If the Government want that the number of civil suits should be decreased, I think, they have hit upon a very handy weapon in order to keep down the number of such cases. It seems that the primary object of this Bill is to raise revenue as the Government are hard pressed for money. By this process no extra revenue will come to the coffers of the Government and instead, the revenue on the court-fees will be diminished. It has been given out that at a conference the Commissioners have approved of the Bill. I beg to submit that the opinion of the Commissioners who have no experience in the administration of Civil justice should not guide the Government in a matter like this. The elaborate procedure laid down in clause 9 will involve extra costs and labour which will work hardship on the litigant public. Government have cited certain cases in which payment of court-fees was evaded, and which in their opinion justify them to proceed with this legislation to prevent evasion of the payment of court-fees. These cases amongst thousands of cases which are yearly instituted in the Civil Courts do not prove the rule that in majority of cases the law of court-fees was evaded; on the other hand, they are exceptions which prove the rule.

I hope in consideration of the drastic nature of the provisions of the Bill involving changes in principles, this Bill should be circulated for a sufficiently long time so as to enable the public to pronounce their opinion thereon.

As the Bill is going to be circulated I have not attempted a detailed examination of the Bill.

Another thing which should be remembered is that Government should not trade upon the administration of justice—clauses 7 and 8 are obviously intended for raising revenue; these are not measures for prevention of evation of law.

With these words I commend my motion to the acceptance of the House.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I rise to give expression to a most unmitigated hostility to the Bill which has been proposed by the Government. This is perhaps only the second of a series which has not yet been exhausted. Government have taken up these Bills in hand because it finds itself in the position of a person who finds it difficult to make both ends meet and looks out for desperate

devices for raising money. What is worse, instead of coming forward with a bold project of taxation Government have adopted back door methods. They have not the courage to say that they want more revenue out of litigation whether in the Presidency Court of Small Causes or in the *muffasal* courts, but they adopt a subterfuge, they pretend that they are out to prevent anomalies and evasions.

Sir, it is rather surprising that the Government should have found out these anomalies some of which were spoken of by the Taxation Inquiry Committee some years ago, just at this moment. It is the tightness of the purse that has suddenly made the Government so very sensitive to anomalies of all sorts. My friend Mr. Abul Quasem has given excellent reasons why the Bill should be thrown out here without circulation for eliciting public opinion. Why should litigation be further taxed. Put away all these subterfuges, look at it as a Bill which is intended to bring in more money to the Government through litigation. Why should more money be got out of litigants? Is litigation a luxury so that we can go on taxing it without limit? I know that with some people, people with long purses, litigation often becomes a luxury, but nevertheless litigation has also got a tiny little function to perform in the way of doing justice. Although, as a matter of fact, litigation does not always end in doing justice, there are cases in which justice is done, even by litigation, and poor people who are not so very conversant with the secrets of these things, are still deluded with the idea that justice is done, and for that reason they seek the Courts in the hope of getting justice. Do you mean that the door should be slammed in the face of these people who want not to indulge in a luxury but to have justice in the courts of law, although the Government might think that the courts of law do not exist to do justice. Is this a luxury, I say, that should be taxed without limit? Or is it gambling, similar to betting at the Races? I know that some litigation is sheer gambling. I know, looking at the records of Courts, one is perhaps inclined to think in one's cynical moments that litigation is more of a gamble than people care to think of. But even then, it is not sheer gambling which exists for that purpose alone. The sole justification of Courts lies in their justice to the people. If it has failed in that function, if the Government thinks that litigation has been reduced to sheer gambling, well more taxation is not the way of dealing with it. In that case, let the Government come and make a clean sweep of litigation, on the ground that it is sheer gambling and nothing else. The purpose of litigation is to administer justice. I am repeating this over and over again in order to make it clear that this is so, a thing most of us often forget. If it is for this reason that the courts exist, then are you entitled to exact from people more than is necessary for the purpose? No one in the old days thought it is possible, or just or fair or right for the State to screw out from the people more for the administration of justice than was necessary to bear

the expenses of justice. But now things have come to such a pass that after years of profiteering in administration of justice Government is quite content shamelessly to assert that its administration of justice is a profitable business which is one of the props upon which the Government of this province stands. I do not look upon it in that way; I look upon tax from litigation as revenue which is strictly limited for the purpose of doing justice to the people, and it ought to be devoted to that purpose. But we have drifted very far from that point of view. Nevertheless if you are now going to revise the Court-fees law and seeking to go behind the principles laid down in 1870, which, the Hon'ble mover of this resolution has been at pains to point out to us, were anomalies, then revise it wholesale, go to the root of the principle and make it your principle that you are going to take out of justice no more than you give for it, that is the value of the labour given for it. You might do other things, numerous other things. For instance, the present *ad valorem* basis of court-fees is open to serious criticism. A case valued at a lakh of rupees may not involve much labour in court, but nevertheless the litigant has to pay enormous fees before bringing it to court. On the other hand a small litigation of the value of say Rs. 1,000 which will perhaps take up a lot of the time of the court, but nevertheless a small court-fee has got to be paid for it. That is an anomaly which does not exist on the Original Side of the High Court. It is worthy of consideration whether we should not got back upon the *ad valorem* basis of taxation, if you are really going to the first principles. This Bill seeks to go to the first principles, it seeks to ameud numerous provisions of the law in a way which affects its original principles. Take, for instance, the provisions of section 7. It has been suggested that in cases coming under section 7, clause (*iv*), that is to say—

In suits for moveable property where the subject-mater has no market value, as, for instance—

(*a*) in the case of documents relating to title,

(*b*) to enforce the right to share in any property on the ground that it is joint family property, and

(*c*) to obtain a declaratory decree or order, where consequential relief is prayed, or

(*d*) to obtain an injunction for a right to some benefit (not herein otherwise provided for) to arise out of land, and for accounts where, according to the present law the fees are payable according to the amount at which the relief sought is valued in the plaint or memorandum of appeal,

the fee payable on the plaint or memorandum of appeal shall not be less than Rs. 20, except in the case of suits mentioned in paragraph viB, *i.e.*, relating to a right to pre-emption.

In cases coming under clause (*c*) where the relief sought is with reference to any immoveable property, the amount at which such relief is valued shall not be less than half of the market value of the immoveable property. Why should this be done? There was a very definite and clearly intelligible principle in this section. In these cases where relief is sought, the actual loss which is suffered by the party is not estimable in money value. Therefore what the law provides is that the person who suffers by it, is the judge of what it means to him and therefore he should put his own value upon the suit. It is on this principle that this provision is based. But unfortunately that does not bring in much money! It has been said that there has been some evasion. I doubt whether there have been many cases of evasion. A small value may have been put upon a suit for obtaining an injunction. For instance, where the person in question is in possession of his property, and his possession is in no way interfered with, a small value is put on the prayer for injunction against some ephemeral shadow on the title. But without the prayer for injunction the title is not very much affected; the value put by the plaintiff represents to him the value of the suit. But here on the contrary we are going to substitute a rule of the thumb. You must pay at least Rs. 20 in some of these cases. Why? Suppose a tenant wants to have cancellation of a document which has been executed, a *kabuliyat* executed in respect of land in his possession valued at say Rs. 50, by somebody who has nothing to do with it, or for the delivery of documents of title probably worth Rs. 100, in the hands of another person, he will have to pay a court-fee of Rs. 20 for the relief. What justice or principle is there behind this, except a mere thirst, a mere hankering for money? Then coming to cases relating to immoveable properties, the relief sought may be a very trifling thing, but nevertheless the court-fees will be payable on a valuation of not less than the market value of the property. Why? I may be asking for the declaration of my title and injunction against a trivial wrongful act or asking for the declaration of title to a property and removal of a small obstruction; all these come under this, and I have got to pay court-fees upon the value equal to half the market value of the property. The relief I am asking for may not be worth more than Rs. 100, but I have to value it at half the market value of the property which may be a lakh of rupees. There are numerous other cases where established principles have been upset. I am not afraid going to first principles: go to first principles if you like by all means, but go back to the very first principle, that litigation shall not be taxed more than is necessary for the purpose of maintaining machinery for the administration of justice. If you are prepared to go to that extent, I am prepared to go the whole hog, but you go and upset certain principles which happen to bring you less revenues than you think you are entitled to. You think that, because in 10 cases there has been a possible evasion, by adopting tortuous way of making plaints, therefore you can victimise

hundreds of thousands of people who are honestly asking for relief after putting a value upon it which they are honestly entitled to do. Well, as I said before, this is really slamming the door in the face of the poor man who seeks justice and this is the last thing that Government should do when the poor litigants are hopelessly in distress. For these reasons I think this is a Bill which should be opposed tooth and nail on principle and should be opposed here and now without sending it out for circulation.

Mr. W. H. THOMPSON: I am inclined to support the motion of Babu Khetter Mohan Ray, though for none of the reasons given by the last speaker. In fact, when he says that this Bill is really slamming the door in the face of the poor litigant and ask why the poor litigant should pay more, he turns the Bill the wrong way and deliberately misrepresents the whole principle of it. The Bill on the contrary intends to slam the door rather in the face of the man who is dishonestly trying to get in without paying for his ticket. We in this group entirely support the principle of the Bill but we do not like the date —the 28th February. We look forward to a long and tiring session. What is the significance of the 28th February? Does it mean that the Bill will be put before the House again during March? This last straw may break the camel's back, and therefore we should prefer for our own sakes that more time be given before this Bill comes to this House again. As for who are to give their opinion they will be judicial officers, Bar Libraries, People's Associations and so on and it seems to me that to give to these people less than six weeks within which to get their opinion in, is to ask them to do something which to them is practically impossible.

As regards the details of the Bill, into which Mr. Edgley went at some length, he ended up by saying—I do not remember his words, but his intention was that any reasonable suggestion from members of this House would receive consideration. He also said—such is his modesty—that he did not think that the drafting of the Bill was absolutely perfect. You will have noticed from Mr. Edgley's figure and manner, Sir, that he is a judicial officer. For 20 years, at least to my knowledge, executive officers and especially officers of the Settlement Department have been trying to pursuade judicial officers that there is such a thing in some districts as a record-of-rights. The Settlement Department went to the length of printing full copies of the record-of-rights for the whole district for the District Judge and I think two others for the munsifs. They have never been looked at; their pages are still uncut and yet the record-of-rights is a means of arriving at a valuation, in a very few minutes, of the property covered by any title suit. In this Bill is there any mention of that record-of-rights, is there any mention of the very obvious ways in which the valuation of the land which is the subject-matter of a suit can be

arrived at? I suggest, therefore, that before this Bill is finally put before us it should include provision for checking the valuation of the plaint by means of the record-of-rights and not only give the court the authority to take cognisance of the record-of-rights of its own initiative, a point upon which courts seem doubtful, but also enjoin upon the court the duty of referring to the record (without making the parties produce the copies) for the purpose of checking the valuations of the plaint in a title suit.

Babu KISHORI MOHAN CHAUDHURI: I rise to record my whole-hearted opposition to the introduction of the Bill. Sir, you will remerber that only 10 years ago the court-fee revenue was increased by 50 *per cent.* only for meeting the temporary deficit in the cost of administration, with a distinct promise that as soon as the jute duty was granted to Bengal which was due to her, not only this increased revenue but also increases on account of stamp and amusements taxes would be set apart for the nation-building departments. Now we are told that Government are being defrauded in certain cases of their just revenue but Government should remember that they increased the revenue only ten years ago without any rhyme or reason by 50 *per cent.* for simply meeting the ordinary expenses of Government. Sir, what was the special necessity? and where is the unfairness which has now been discovered? If there were any anomaly it should have been perfected then, but without doing that you propose to raise it now. You now say that what you have done you have done and all your assurances and promises have been forgotten and all the increased revenue is now being swallowed by the ordinary expenses of Government. Now you have come forward and say that there are certain anomalies and that it is time that Government should no longer be defrauded in such ways. Sir, this is not the time when any increase of revenue should even be thought of. If there is any special reason, I say first redeem your promise; meet the ordinary expenses of Government in some other way or secure the jute duty for Bengal which will be quite sufficient for meeting the ordinary requirements of the province and then restore the increased revenue on stamp, court-fes and amusements to the nation-building departments; only then, if necessary, you can think of raising the revenue or doing something else. You ought to bear in mind that your attempt to increase the court-fees revenue again in the plea that Goverment are being defrauded in certain cases is not proper and should not be therefore resorted to. On this ground alone I emphatically protest against the further imposition of an additional court-fee and I think the matter should be rejected.

Khan Bahadur Maulvi AZIZUL HAQUE: Amidst the chorus of condemnation which has been hurled from several sides of this House it requires a good deal of courage on the part of anybody to give even

a modified support to a Bill of this character. I think everyone keeps his conscience in his own manner and I feel I should be failing in my duty if I do not give expression to my views on this particular Bill. I frankly admit that there are certain provisions in this Bill which will not meet with the approval of this House or of the public but there are certain other features which appear to me to be good. So I do not understand why everybody of my friends should say that there must be unmitigated opposition to the Bill itself. If the law to-day is such that one litigant escapes by paying a smaller court-fee I do not see any reason why the legislature should not intervene with a view to put a stop to that; when I find that as a matter of fact one litigant is trying to take advantage of or trying to defraud the revenue as Mr. Edgley has put it, I do not see any reason why an attempt should not be made to find out some means of stopping those evasions; more especially where I find that public revenue is defrauded I think the legislature should always try its best to find out some means or other to prevent that. It is the experience of many that attempts are being made time and now with a view to undervalue suits. If that is so, it is always necessary that some instrument should be found out by which this can be stopped. For the time being as I said we do not accept all the provisions of the Bill. But the sole question at present is whether the 30th March or the 30th June is the best time. I do not understand the opposition and the many words of condemnation as regards the prevailing judicial system. After all whatever might have been in the Hindu or Mahomedan period, we are not living under either of them now; we are living under the system of High Court with all its paraphernalia, the legislature and democracy; and so on; so why condemn the one while you don't condemn the other. For the time being the motion is only to find out whether the 30th March is sufficient for the purpose of eliciting public opinion or whether we should extend the time till the 30th June. With reference to that I consider that if the Bar Associations in the different districts of Bengal are consulted it will be possible for them to give their opinion within the 30th March. I consider 30th June to be a long time when people are apt to lose their interest unless somebody carries on an agitation from behind. I feel 30th of March to be good enough as that will give everybody time to reflect. We do not pledge ourselves to one view or the other but all we say is that as the Government is bringing forward a measure public opinion should be crystallised as soon as possible. Personally I consider 30th of March is a sufficient enough time to bring public opinion into focus.

Mr. N. G. A. EDGLEY: I would like to say that Government will accept the amendment of Babu Khetter Mohan Ray to the effect that for the figures and word "28th February" the figures and word "30th March" be substituted.

With regard to the various attacks which have been made on the provision of the Bill by Dr. Naresh Chandra Sen Gupta and other speakers it seems to me that they have concentrated their attention far too much on the minor provisions of the Bill and, in fact, they have had very little to say about the main provision, which is clause 9, and which, as I said before, is designed primarily to prevent evasion. The other provisions are of a far less important character and if it is shown that any of them are unreasonable, unfair or unworkable, and, if in due course the Bill is referred to a Select Committee, Government will accept any reasonable amendment. Dr. Naresh Chandra Sen Gupta has said a great deal about the taxation of the poor man and the taxation of justice. With regard to this particular matter there is no question of increasing the taxation of the poor man but we do propose to make the dishonest man pay what is due from him. I think most members of this House will admit that it is extremely unfair that the bulk of the taxation which is now leviable under the fiscal Acts should be paid by the honest litigant. In fact it is not alleged that evasion does not take place. This evasion is not only demoralising but it may really mean that the honest litigants, who I know are in the majority, pay more than they ought to pay.

Mr. Thompson has referred to the record-of-rights and has pointed out the desirability of referring to the record-of-rights with regard to matters of this sort. I quite agree with Mr. Thompson that this may be necessary or desirable but I would refer him to section 7A of clause 8. If rules are made with regard to the calculation of the market value, it will be possible for Government to insist on a reference being made to the record-of-rights in suitable cases. I would therefore ask the House to agree to the circulation of the Bill for opinions to be received by the 30th March, 1934.

Mr. PRESIDENT: But your own motion remain

Mr. N. C. A. EDGLEY: We will agree to the amendment of Babu Khetter Mohan Ray.

Mr. N. K. BASU: May I just ask one question, Sir? How does Mr. Edgley make his point that the honest litigant will pay less under this Bill?

Mr. PRESIDENT: Where have you been all this time?

Mr. N. K. BASU: When I was just coming in I heard him saying something about the honest litigant paying less. I cannot discover anything of that sort within the four corners of the Bill.

Mr. PRESIDENT: You will have ample time to discuss all this later on.

The motion of Babu Khetter Mohan Ray was then put and agreed to.

The motion of Maulvi Abul Quasem failed.

Mr. PRESIDENT: I will now put Mr. Edgley's motion as amended by the motion just passed by the House.

"That the said Bill be circulated for the purpose of eliciting opinion thereon before the 30th March, 1934".

The motion was agreed to.

The Bengal Alluvial Lands (Amendment) Bill, 1933.

The Hon'ble Sir PROVASH CHUNDER MITTER: I beg to introduce a Bill to amend the Bengal Alluvial Lands Act, 1920.

The Secretary then read the short title of the Bill.

The Hon'ble Sir PROVASH CHUNDER MITTER: I beg to move that the said Bill be referred to a Select Committee consisting of—

(*1*) Mr. W. H. Thompson,

(*2*) Khan Bahadur Maulvi Azizul Haque,

(*3*) Khan Bahadur Maulvi Alimuzzaman Chaudhuri,

(*4*) Maulvi Nur Rahman Khan Eusufji,

(*5*) Mr. Altaf Ali,

(*6*) Khan Bahadur Maulvi Muazzam Ali Khan,

(*7*) Babu Khetter Mohan Ray,

(*8*) Mr. Sarat Kumar Roy,

(*9*) Mr. Mukunda Behary Mullick,

(*10*) Babu Jitendralal Bannerjee,

(*11*) Mr. F. A. Sachse,

(*12*) Mr. O. M. Martin, and

(*13*) the mover,

with instruction to submit their report as soon as possible and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

Sir, in placing this motion before the House I desire to say a few words for commending it to the acceptance of the members of this Council. As members of this House are aware, the details are to be considered in the Select Committee: we are now concerned with the

broad principles only. The object of the original Act of 1920 was to deal with a peculiar kind of lawlessness, particularly with regard to *char lands*. Many members of this House, particularly those coming from East Bengal, are aware that there is a regular scramble for the possession of *char* lands. Experience shows that the object of the Act of 1920 was frustrated in many cases. The actual working of the Act showed certain defects, and difficulties and delays have occurred in the administration of the Act. The object of the present Bill is to move these defects. The procedure under the Act of 1920 may be roughly divided into three main stages: firstly, the attachment of the *char* by the Collector; secondly, survey by the Collector and reference by him to the civil court; and thirdly, the decision of the dispute by the civil court. The first difficulty experienced arises from the fact that it is not always certain in which district a new alluvial formation lies. That very question in some cases can only be decided on the result of the survey. When a *char* appears in the bed of a river, say between Faridpur and Dacca or between Faridpur and Pabna, it may be within the jurisdiction of Faridpur or Pabna or Dacca. If the Collector of any of these districts attaches a *char* which as a result of the survey is found to belong to a different district, then there would have to be *de novo* proceedings. That means delay. Clause 2 of the present Bill will get over this difficulty, if a *bona fide* mistake regarding jurisdiction happens to have been made by the Collector. The question of jurisdiction is uncertain and in some cases there have been changes in the course of the river with the result that lands which really originally belonged to one district becomes part of another district. There on the advice of the law officers *de novo* proceedings had to be taken. I might remind the House in this connection that Mr. Mukunda Behary Mullick introduced a private Bill, the main object of which was to avoid delay. The main object of the present Bill also is to avoid delay and to simplify the procedure.

Another difficulty arises from the multiplicity of parties to references made under section 5 of the Act which provides that the Collector, in making a reference to the civil court, has to state the names of parties whom he has reason to believe to be claimants. Then the court has to issue notice to all claimants mentioned in the reference and also general notices calling upon other persons claiming interest in the land to appear and file statements of their claims. It may be noted in this connection that in the Act, as it stands, anybody claiming an interest in the land can apply to be made a party, and no time limit is laid down within which such applications are to be made to the court. Under the present law, therefore, undesirable delays are likely to occur and have actually occurred in several cases. Instances are not uncommon where in the preliminary stages three or four years have been taken. In the present Bill attempt has been made to avoid such delays by the insertion of a new section, 4A, giving power to

the Collector to investigate the *bona fides* of the claims before reference is made to the civil court and to exclude from the list of *bona fide* claimants any person whose claims to the land are merely that it has been settled with him during the period of the attachment. As hon'ble members, particularly those who are familiar with the law on the subject and those who through administration of properties are familiar with the matter, know, in these cases title can be claimed either on the ground of reformation *in situ* or alluvial formation due to a *char* being accreted to the original land. Title can be claimed either by the zemindar or by the tenure holder or by the occupancy *raiyat*. Title can be claimed by Government when the *char* is in midstream. Suppose a new land appears. If the zemindar has a title he may then state that it belongs to his *tauzi* number so and so and *mauza* number so and so; if it belongs to a tenure holder—it may belong to him for a part of the *mauza* only—he will say that a part of the tenure has been washed away, but he held the tenure under such and such a estate and *mauza*. If the claim is made by an occupancy *raiyat* he will also put forward a claim on similar lines. On the other hand under the present Act if the land is settled temporarily by the receiver appointed by the Collector and if that man comes forward, his claim has to be automatically accepted, although he may not have any claim to title with the result that sometimes there are 200 or more parties and if any party dies, time has to be given for substitution. Then if another man dies the result is hopeless delay. The object of the Act of 1920 was to stop lawlessness and to see that civil litigation was not delayed beyond any reasonable time. Some of the defects as pointed out above have to a certain extent frustrated the object of the Act. The effect of these provisions in the Bill would be to reduce the number of parties while at the same time ensuring that every person—and this is very important—who has a *bona fide* claim of title is included in the reference to the civil court. Whereas under the present law even if a person has really no claim he has only to apply and he has to be included in the reference.

The third main feature of the Bill is to make it easier for the Collector to compromise cases between the contending parties. Under the present Act this can be done by cancellation of the order of attachment under section 3 (*3*), but there is no provision in the Act which authorises the Collector to distribute the surplus profits which in the case of a valuable *char* are very considerable. Sub-clause (*f*) of clause 2 of the Bill gives authority to the Collector to make such distribution after issuing notices and making necessary inquiries. It is hoped that the result of this provision will be that many more cases will be compromised to the advantage of the party who really has the title.

Another defect in the present Act is that it does not provide specifically for the assessment and recovery of the cost of management

during attachment, and the costs incidental to the proceedings. Clause 4 of the Bill lays down very explicit instruction as to the manner in which the costs are to be calculated and realised. The last part of clause 4 provides that the civil court shall not dismiss a reference for default but shall go on to decide the reference on the materials before it. The present Act appears to leave it open to the Civil Courts to dismiss a reference in which the parties to the reference do not take sufficient interest in the prosecution of the case. This might have the undesirable effect of leaving a troublesome dispute undecided and would put the Collector in a serious dilemma. Those are the main principles of the Bill and as my present motion is that it be referred to a Select Committee where all the clauses would be thoroughly threshed out, I do not think I need dilate further on it. I would, however, like to point out that this Bill affects only a comparatively small portion of the population, and so far as we have been able to gather the people who would be affected by the operations of the Bill would certainly welcome speedy disposal and that is one of the main objects of the Bill. With these words I commend my motion to the acceptance of the House.

MUNINDRA DEB RAI MAHASAI: I beg to move that the Bill be circulated for the purpose of eliciting public opinion thereon before the 28th February, 1934.

The object of my motion is to give the public an opportunity of expressing their opinion thereon. Although public opinion counts little in this country yet in all fairness, it should be invited on a question in which the vital interests of the public are concerned. This is an important Bill and should be circulated.

Sir, I have tabled this motion also on a question of principle. Whenever a non-official Bill is introduced into the Council it is invariably recommended for circulation with a view to elicit public opinion thereon. Otherwise the threat is held out that Government will in that case oppose it. With a view to save the Bill from being thrown out the member in charge naturally yields to official mandate. The case is quite different if the Bill is introduced by a member of the Treasury Bench. It depends upon the official member in charge to decide whether it should be circulated or not. This sort of differential treatment is not desirable. In the case of non-official Bills for the change of a single word the Bill is recommended for circulation, otherwise it could have been disposed of in five minutes on the floor of the House as is done in case of some official Bills. If the Hon'ble Members of the Treasury Bench think themselves supermen free from mortal errors, I would not have objected to the practice, otherwise the same principle ought to be observed in both official and non-official Bills. As it is a very important Bill, it should go out for circulation.

The Hon'ble Sir PROVASH CHUNDER MITTER: I do not think I need take up much time of the Council. The hon'ble member wants the Bill to be circulated for the purpose of eliciting public opinion thereon before the 28th February, 1934. If his object be that this Council should not deal and finish the passing of the Bill then that is an admirable way of attaining that object. If the Bill be circulated for eliciting public opinion and we have to wait till the 28th February, 1934, it would mean that the Bill would not be taken up this session, because the statutory time for the discussion of the budget would come up only a few days later. I may assure the hon'ble member that we are introducing this Bill because of the demand from that class of the public—and my friend is not one of them—who are affected by the present Act and want speedier disposal. If my friend wants to delay, I have no objection, provided the Council agrees.

As regards the veiled and ironical criticism that anything that comes from non-official members we want to have circulated for public opinion and anything that comes from the Treasury Bench we do not want to be circulated, I do not admit the charge. Take some of the other Bills that are being introduced: our motion in those cases is for circulation for eliciting public opinion. Where it is necessary and where the general public are intimately concerned, certainly we do circulate for eliciting public opinion. If I may point out without any offence and I hope my friends will not misunderstand me when I say it is only meet and proper that those Bills which are brought forward by certain members who take great pleasure in bringing forward Bills without due inquiry, that such Bills should be circulated for eliciting public opinion. In the present case we have consulted not only our officers in the districts who are concerned but they must have also consulted such non-official private parties as are concerned. I, therefore, submit that the House will reject the Rai Mahasai's amendment. But if the House wants the Bill to be delayed, I have no objection whatsoever.

The amendment was then put and lost.

Haji BADI AHMED CHOWDHURY: I beg to move that after the name of Mr. G. M. Martin, the following names be inserted, namely:—

Mr. G. G. Hooper,

Raja Bahadur Bhupendra Narayan Sinha, of Nashipur, and

Haji Badi Ahmed Chowdhury.

The Hon'ble Sir PROVASH CHUNDER MITTER: Sir, if the House agrees, I am quite willing to accept only one of the three names suggested.

The amendment was then put and agreed to.

The motion that the Bengal Alluvial Lands (Amendment) Bill, 1933, be referred to a Select Committee consisting of—

(1) Mr. W. H. Thompson,
(2) Khan Bahadur Maulvi Azizul Haque,
(3) Khan Bahadur Maulvi Alimuzzaman Chaudhuri,
(4) Maulvi Nur Rahman Khan Eusufji,
(5) Mr. Altaf Ali,
(6) Khan Bahadur Maulvi Muazzam Ali Khan,
(7) Babu Khetter Mohan Ray,
(8) Mr. Sarat Kumar Roy,
(9) Mr. Mukunda Behary Mullick,
(10) Babu Jitendralal Bannerjee,
(11) Mr. F. A. Sachse,
(12) Mr. O. M. Martin,
(13) Mr. G. G. Hooper,
(14) Raja Bahadur Bhupendra Narayan Sinha, of Nashipur,
(15) Haji Badi Ahmed Chowdhury, and
(16) the mover,

with instruction to submit their report as soon as possible and that the number of members whose presence shall be necessary to constitute a quorum shall be five, was then put and agreed to.

The Bengal Smuggling of Arms Bill, 1933.

Mr. G. P. HOGG: Sir, on behalf of the Hon'ble Member-in-charge I beg to move for leave to introduce a Bill for the prevention of smuggling of arms and ammunition in Bengal.

The motion was put and agreed to.

The Secretary then read the short title of the Bill.

Mr. G. P. HOGG: Sir, on behalf of the Hon'ble Member in charge of the Bill I beg to move that the said Bill be referred to a Select Committee consisting of—

(1) the Reverend B. A. Nag,
(2) Rai Sahib Sarat Chandra Bal,
(3) Babu Jitendralal Bannerjee,

(4) Rai Bahadur Kamini Kumar Das,

(5) Khan Bahadur Maulvi Azizul Haque,

(6) Khan Bahadur Muhammad Abdul Momin,

(7) Mr. W. H. Thompson,

(8) Mr. Narendra Kumar Basu,

(9) Mr. G. P. Hogg, and

(10) the mover,

with instruction to submit their report within a week from the date on which this motion is carried in Council, and the number of members whose presence shall be necessary to constitute a quorum shall be five.

Mr. President, Sir, in placing this motion before the House I should like for a few moments to indicate the reasons which have led the Government of Bengal to put forward this Bill and to state briefly the methods by which they propose to achieve the object in view. It is well within the knowledge of all members of this House that from day to day there appear in the press continuous accounts of the seizure of fire-arms in Calcutta and other parts of Bengal. These instances take place more particularly in the city of Calcutta and they are going on from week to week and from month to month. It is obvious to every one that there must be a serious trade in the smuggling of fire-arms. These arms are used in this province not merely for the purpose of assassination of the people who may have incurred the displeasure of the possessor of these arms but also in many parts of the province for the purpose of ordinary crime. I need only refer to mail dacoities in which fire-arms are used and house dacoities in which we get reports of the use of fire-arms not merely to terrorise the residents of the house but to effect escape by inflicting serious injuries on those who seek to interfere with the criminals. Now, Sir, the police have achieved a large measure of success in dealing with these people. As the members of this House are aware, the proceedings in the courts indicate that the detective staff of the Calcutta Police have achieved a great measure of success in catching smugglers, but that success has had an unfortunate result. The dealer in fire-arms has in many cases turned himself into a broker; he has become an agent for fire-arms; he has become a person who puts the purchaser in touch with the seller. These fire-arms are imported mainly, we believe, by people connected with the steamers which come mostly from the Far East into the port of Calcutta and it is naturally somewhat difficult for a man from a steamer coming into a strange place like Calcutta to establish contact with the type of persons who desire to use fire-arms. Therefore, the broker, the agent, the middleman and the go-between find a very profitable source of income in bringing these two classes of persons into contact and it is against these people,

the brokers, the agents, that the Government have directed this Bill. Now it might be urged that it would be sufficient to prosecute these people for conspiracy or for aiding and abetting the sellers and purchasers of fire-arms. But it is well-known to the members of this House that a conspiracy case is one of the most difficult to run. The collection of evidence presents numerous difficulties to the detective staff. The courts require a very high standard of proof in connection with a conspiracy case. The average conspirator has himself no immediate contact with the crime. He remains at a distance; he avoids coming into close contact with those who are actually arranging the transport and sale of fire-arms. He himself avoids prosecution but puts the work, the dirty and dangerous work, if I may say so, into the hands of the underlings, who are prepared for immediate gain to undertake a dangerous task. Well, to deal with this difficulty the Government propose to introduce this legislation whereby such persons will be dealt with on the lines of goondas under the Goondas Act. That Act, I presume, is well-known to the members of this House, many of whom probably know how difficult it was to deal with this class of miscreant. The ordinary law failed and it was incumbent on the Government to find some new method of relieving Calcutta from the pest of the goonda. Therefore this form of procedure was introduced whereby such persons, when it is proved that they are goondas, may be removed either from some area in Bengal or from the whole province of Bengal. It is proposed to adopt the same procedure in connection with these dealers, traffickers and middlemen in respect of fire-arms.

Coming to the Act I would only refer briefly to the principal provisions. The Act will come into force in certain notified areas which would normally be the ports of Calcutta and Chittagong. But nevertheless Government reserve the power or rather take power in this Bill to introduce the Act in any part of the province where the traffic in fire-arms threatens to become serious. The procedure is briefly the same as that followed in the Goondas Act. The case of every person who is suspected of being concerned in this traffic in fire-arms will be placed before two advising judges who will have power to take evidence, to examine witnesses and of course they will be bound to hear what the man has to say in his defence. Thereafter the report of the judges will be placed before the Local Government in whose hands the power rests to pass the final order of externment.

Section 7 deals with the power of externment. The person against whom evidence is satisfactory in the opinion of the advising judges may be directed to leave Bengal within a prescribed period, if he is an inhabitant of Bengal, or domiciled in Bengal he may be told to remove himself from the notified area, but not outside the province of Bengal.

The remaining sections of the Bill provide for penalties for disobedience of these orders similar to those provided in the case of the Goondas Act.

These are the fundamental principles of this Bill and I think the House will agree that it is likely to achieve the object in view. If the middleman, the trafficker, the go-between be removed, then the purchaser of fire-arms either in Calcutta or the man who comes down from a *mufassal* district to make a purchase of fire-arms, will find it difficult to establish contact with the sailor who comes off the steamers which arrive in Calcutta. The danger of the traffic in fire-arms will be considerably increased, and the risks of coming into contact with the wrong type of persons will be considerable. The obstruction of the traffic will therefore tend to suppress this wicked and diabolical trade in which not only is the Government interested but, I would submit, the public of the province who already have suffered a great deal from the hands of criminals who have armed themselves with smuggled fire-arms obtained in this illicit way. I therefore trust that the House will give Government their full support in passing this useful and necessary piece of legislation.

I therefore commend this motion to the House.

Mr. SHANTI SHEKHARESWAR RAY: Once again the Government of Bengal have come before this House with a measure which cannot be justified by the ordinary standards of justice and fairplay. Sir, I cannot withhold my sympathy for the tragic position of the Government of Bengal. They have armed themselves with all sorts of laws, good and bad, but still they find themselves unable to cope with the growing menace of terrorism and increase of ordinary crimes in this Province. In their despair they do not seem to consider whether the measure that they are putting forward has the support of the public for whose benefit it is being enacted. Sir, I cannot understand this hurry on the part of the Government to push through such a legislation. I do not exactly understand the position of the Government in this matter. I have followed the speech of the hon'ble member who has introduced this Bill, but I find that he has been very badly briefed. He has presented a very bad case and if I may be permitted to state, he is not in a position to state before the House what exactly he wants and what exactly he hopes to achieve by adding a measure of this nature to the statute book. The position of the Government is this: that there have been terrorist crimes in the province. Well, fire-arms have been employed on such occasions. The fire-arms have been employed also in connection with dacoities. But, Sir, instead of stating these well-known facts the Government would have strengthened their position if they had produced figures to show that when such crimes were committed and fire-arms were recovered

from the criminals it was found that the fire-arms had been smuggled, then I could have understood the position of the Government. But the hon'ble member is totally silent on this point and in a way he has said that there have been crimes and we cannot stop those crimes; therefore give us the power to deport anybody from this province on mere suspicion without giving that suspected person an opportunity to prove his innocence in the ordinary court of law, even not before those Special Tribunals. The House is entirely in the dark about the reasons that have led the Government to bring forward such a measure. Then, Sir, it is not the case of the Government that the ordinary laws have proved ineffective in dealing with these cases of smugglers. Well, Sir, I would like to hear from the Hon'ble Member in how many cases the Government have failed to bring home in a court of law crimes of this nature. If the Hon'ble Member could have cited the cases in which people were afraid to give their evidence and stated that there had been a failure of justice on that account, that would have been some justification for a measure of this nature. There have been no such cases so far as I know. So far as arms used in connection with the terrorist crimes, well, if I trust my memory I have some recollections that these arms are stolen properties or guns and fire-arms lost by the owners who held them under a license due to their neglect, and Sir, in some cases the owners were Britishers who could not have possibly any sympathy with the terrorists. You may have this measure but still the terrorists will provide themselves with the arms from that source. What are you going to do with them in that matter. I carefully considered why Government should bring a measure of this nature. The only explanation that appears to me is this: it appears to be a sort of desperate effort to justify that the Government is functioning. Every time there is a terrorist outrage in this province several of the members and members of the European British community here in India raise a great cry. They charge the Government of Bengal with weakness. They charge the Government of Bengal with an attitude of mind that is hardly flattering to Government, and the Government of Bengal, every time that there is an outrage,—just to show that they are doing something and that the continuance of the outrages is not due to their weakness or inefficiency, but because they have not got sufficient powers to deal with them,—come up to the Council for fresh powers. So for a time the public opinion—of course, by public opinion, I mean the opinion of the British in Bengal—is lulled and the Britishers think that if they support a measure of this nature in the Legislative Council they have done their part in crushing terrorism in Bengal; they even go to the length of saying that those who oppose such measure show their sympathy for the terrorists; but, Sir, what is the difference between those who vote for such legislation and those who oppose such legislation? Mere support from these British benches does not help the Government very

much. Government have already got in their hands measures which give them wide powers to deal with terrorism; you can intern anyone whom you suspect to be guilty of such offences. Why don't you take action under that law? If you have not taken action under that law then you have no justification for coming forward for this additional power. Your administration of the powers which you already possess has not been proper and effective and I am almost sure that even this power won't help you, and that more power do you want to take? The man who wants to help a person to get fire-arms for the purpose of committing crimes or for committing murders—the chief actor in the drama—is a most detestable person who keeps himself in a safe place. But you don't intern him; you don't send him to the Andamans, but what do you do with him? You just ask him to leave the province, as if that will be a deterrent punishment for a crime of this nature? The fact is that you cannot bring home a crime of this nature to any one and you have to proceed on mere suspicion and suspicion only. Sir, if we oppose a measure of this nature it is not out of sympathy for the terrorist or for his ideal but we do our duty even though we may be misunderstood. We do so because we feel that Government is following a very wrong, and if I may say so, a useless policy. But if Government is serious in the matter, if they really want to crush the spirit of terrorism they should disabuse themselves of the notions of administration that they have picked up during the last few years.

Adjournment.

The Council was adjourned till 2-15 p.m. on Wednesday, the 10th January, 1934, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Wednesday, the 10th January, 1934, at 2-15 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh), in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers, and 96 nominated and elected members.

Obituary Reference.

Mr. PRESIDENT: Gentlemen of the Council, it is my melancholy duty to refer to the death of another sitting member of this Council, *viz.*, Haji Lal Muhammed. The Haji Sahib represented the Rajshahi South (Muhammadan) Constituency in this Council from 1924 to 1926 and again from 1929 till his death on the 3rd instant at the advanced age of 88 years. He was a zemindar and a sincere worker and we shall miss his genial presence amongst us. I know it will be the wish of the Council to convey to the bereaved family an expression of deep sympathy in their loss. I would ask you to signify your assent by kindly rising in your places.

(Pause.)

Mr. PRESIDENT: Thank you, gentlemen. The Secretary will take the usual steps.

STARRED QUESTIONS

(to which oral answers were given)

Honorary Sheriff in Calcutta.

***3. Mr. S. M. BOSE:** (*a*) With reference to the question of Honorary Sheriff in Calcutta raised by Mr. S. M. Bose, will the Hon'ble Member in charge of the Judicial Department be pleased to state—

(*i*) what further progress has been made in the matter;

(*ii*) what arrangements are being contemplated for running the Sheriff's office;

(iii) whether it is a fact that the Government contemplated placing the venerable and historic office in charge of a Sheristadar; and

(iv) whether such proposal has been approved by the High Court?

(b) Have the Government considered the question of the advisability of putting the Sheriff's office in charge of the Registrar or the Master of the Original Side of the High Court?

(c) Are the Government contemplating taking over the Sheriff's office? If so, from what time?

(d) What arrangements will be made about the Pension Fund for the Sheriff's office?

(e) Will the Hon'ble Member be pleased to state whether, in any new arrangements, there will be adequate safeguards provided, to protect the right to pension of those already enjoying it and those entitled to it under the existing Sheriff's Pension Fund Rules?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Mr. R. N. Reid): (a)(i) A tentative scheme has been prepared, which has necessitated a reference to the High Courts of Madras and Bombay. Their replies are awaited.

(iii) No.

(iv) Does not arise.

(a) (ii), (b), (c), (d) and (e) These matters are under consideration, but no decision has yet been reached as to the proposals which should be submitted to the Government of India with reference to the Sheriff's office.

Mr. S. M. BOSE: Will the Hon'ble Member be pleased to state when the Government of Bengal expect to be able to send a report to the Government of India?

The Hon'ble Mr. R. N. REID: I am afraid I am not in a position to say.

GOVERNMENT BUSINESS

GOVERNMENT BILLS.

The Bengal Smuggling of Arms Bill, 1933.

The discussion on the Bengal Smuggling of Arms Bill, 1933, was then resumed.

(Mr. Shanti Shekhareswar Ray, who was in possession of the House yesterday, continued.)

Mr. SHANTI SHEKHARESWAR RAY: As I was going to say yesterday, the principle underlying the Bill ought not to be adopted by any civilised Government, and that too in the interest of good Government. The procedure, as outlined in the Bill, is certainly a clumsy one. At first sight you have got executive powers in the matter of arrest and issue of warrants. Then, there is a show of a judicial attitude in the provision about two Advising Judges and lastly and finally you have got the provision for final orders by the Local Government. If you can leave the final powers in the hands of the Executive Government, then what is the necessity of introducing the provision of two Advising Judges in the matter. Sir, these Judges may be Judicial Officers, but they are not expected to examine the evidence placed before them under the Evidence Act. They are not to follow the normal procedure of trial, but they have to demean themselves by acting as tools in the hands of the executive and follow a procedure that may be repugnant to their sense of justice.

Sir, in my opinion if the Local Government find that they cannot deal with a person in any other way the right course would be to take the entire responsibility in the matter on their shoulders and not drag in Judicial Officers in their capacity as Advisers. It will be placing them in a very false position and I think the employment of members of the Judicial Service on such work is likely to have a very baneful effect on them.

(The hon'ble member having reached his time-limit had to resume his seat.)

Babu SATYA KINKAR SAHANA: Sir, I support the motion introducing the Smuggling of Arms Bill. In spite of the assertion that the members of this Council are in the dark as to the circumstances that led the Government to introduce this Bill, I cannot consider it to be something black as unknown and dark as the *Loch Ness Monster*. I rather consider this Bill to be a necessary measure for bringing back peace to this unfortunate Province which longs for peace after the fitful fever of turbulence shaking it for the last few years.

Sir, it is known to every one in the country—the members of this Council not excepted—that innocent men, both officials and non-officials, are getting assassinated, that people are getting robbed of their money not only in the dead vast of the night but in the broad daylight, in their houses, in streets, in shops and in the running trains; and that the perpetrators of all these crimes are armed mostly with smuggled arms.

There can be no denying the fact that some of the arms have been stolen from the license-holders, both Indians and Europeans. But it

is evident from the arms seized by the Police that such stolen arms form only a fraction of the criminals' weapons. Smuggling is the main source from which the criminals get arms.

Sir, I do not consider this measure as the tightening of another screw on the iron grip of the bureaucracy. Thinking that way is the legitimate progeny of a dark disbelief in the good faith of the Government. As a representative of the people, I think, Sir, I am not justified in cherishing such disbelief. The people still retains a great faith, in spite of hard knockings at the very base of their belief, in the good faith of the Government. This is evident from their actions. The people still feel a sense of security in the presence of the Police, the presence of the Police still acts as a good soporifice in the rural areas, still the people, when robbed or burgled, run to the Police for help, the aggrieved people still resort to the law courts for relief, and, even the members of this Council, the representatives of the people, ask the Government off and on to adopt measures for the good of the people. All this would not have been had the people had no faith in Government. With all this, to insinuate a disbelief in the good faith of the Government by attributing a sinister meaning to the plain statement of Objects and Reasons for this measure, will, I fear, be doing injustice to the distinctive faculty of humanity—I mean reason.

Considering all these, I think, Sir, though I do not know if this measure will suppress or increase smuggling, I consider it to be a step in the right direction and, as such, I give it my whole-hearted support.

Mr. P. BANERJI: Mr. President, Sir, Mr. Hogg, while introducing this Bill last evening, suggested that, for the present, Government were only taking steps for preventing the smuggling of arms through the two ports, *viz.*, Calcutta and Chittagong. This is no news, for we find it stated in the Statement of Objects and Reasons.

Mr. Hogg, while enunciating his first point yesterday evening, did not refer this time to—or rather lay the blame at the door of—the terrorists or the political agitators of the country. But he referred to the other side of the case also, *viz.*, to the ordinary criminals. I was really glad to listen to him. The smuggling of arms continues for committing dacoities in the various parts of the country. Let us first of all discuss this point. Of the two classes of smugglers and abettors in this country, one is interested in political crime, *i.e.*, the assassination of Government officials and also that of innocent citizens. The other class is interested in dacoities and robberies. Now, Sir, it appears from Government figures that the harm done to the people of the

country in the form of looting, etc., is more than the assassination on the political side. And here I may point out that, in spite of the vigorous attempts of Government to check dacoities, etc., in the country, they are on the increase.

Sir, if we go further afield, we find that the Police are helpless and are not in a position to put down these crimes. I might go even further: it is that the Police do not stir out of their homes even when they get information about dacoities and other crimes. A man in the street knows that in 99 cases out of 100 the Police propped up their heads after the criminals had made good their escape with their murderous depredations on the village people by killing and looting. The Police then catch hold of many innocent people with the help of so-called approvers and haul them up before a Magistrate. The inevitable result is that in most cases the trial ends in the acquittal of the alleged criminals. If, according to Mr. Satya Kinkar Sahana, Government are so very sympathetic and sincere and are anxious to remove the scourge of dacoities, etc., they can do so immediately, say, within a week, by giving arms more freely to deserving persons.

I will ask Government to give at least one instance where, when a villager has got a licence for a gun or a revolver in his possession, hardly any dacoity takes place in his house. Sir, there have been so many dacoities of late and why—because Government, that is the District Magistrate, has taken away guns from the villagers who were holding guns under licences. Therefore, if the Government is sincere in their desire to suppress robberies and dacoities, it can only be done by giving arms more freely to the deserving people. But instead of doing that Government have come forward with this sort of measure —a measure that will rather disturb and annoy people than bring in peace and security to them. The Hon'ble Mr. Reid, who is the Member-in-charge of the Police portfolio, will pardon me if I charge the Police in general with inefficiency and it is this inefficiency of the Police that accounts for the smuggling of arms, dacoities, murders, etc. And in spite of this fact, encomiums are constantly showered upon the Police from the high officials in the country. Sir, if you go into any countryside and pay surprise visits yourself to the different thana officers, you will be convinced that these thana officers are not at all accustomed to remain wide awake as to the activities of dacoities, etc. And, Sir, upon these indifferent, incompetent and inefficient thana officers Government mainly depend for reliable information as being the men on the spot so far as dacoities and robberies are concerned! Sir, I would earnestly ask the Hon'ble Member-in-charge of the Police portfolio and also the Chief Secretary, Mr. Hogg—if they are really sincere in their desire to put a stop to the smuggling of arms, etc., immediately—to try this experiment as I have already suggested, that

is to say, licences for arms may be given more freely to deserving persons, and if you do this you will find that dacoities and robberies will immediately dwindle into a negligible figure.

Now, I come to the political assassination. It is true that there is assassination and Mr. Shanti Shekhareswar Ray pointed out how this assassination takes place. Were the arms smuggled from the East or from the West he asked? Mr. Hogg said that these arms are smuggled by seamen from the Far East. But we also know from the records that they are also smuggled by seamen from the West. However, be that as it may, it does not matter whether the arms are smuggled from the East or from the West. The fact remains that a certain amount of smuggling is going on merrily. Now, Sir, Mr. Ray further said yesterday that most of these cases of assassinations are by arms acquired either by stealing or otherwise from persons holding licences to have these arms, especially the Europeans. (Laughter.) But, Sir, in these cases there is no suspicion. It is often suggested by members of this House who are now laughing in their sleeves—I mean the European members—that it is by the speeches of some members of this House that assassination takes place, because impressionable youth being always inflammable, naturally get excited and therefore they commit murder and other heinous crimes. I must say that that sort of wrong view is taken by my friends on the left side and I think that is also the view of the Members of Government. By taking this wrong view of the situation, I am afraid both the Government and those members who support Government are heading for a crisis. (A VOICE: Still to come.) I say crisis in this sense that from the time these Western habits have been imported into this country, the people of this country have chosen the motto—tit for tat, eye for an eye and a tooth for a tooth.

Mr. PRESIDENT: Why should you be drawn into this implication? I am afraid I cannot allow you to labour this point.

Mr. P. BANERJI: Then let me prove that this smuggling of arms was first started by members of Government. (Loud laughter.) I will just explain this. In the year 1923 it was suggested that the Criminal Investigation Department should be abolished but what happened? There was a recrudescence of crimes. After that if you care to look into the records you will find that many cases of smuggling, many cases of bombs sprung up like mushroom. Sir, I can say this without any fear of contradiction that smuggling of any sort in most cases first begins with the connivance of the underlings of Government and this encourages the sailors and seamen who are backed by this Government to take a hand in this business—I mean that the officers directly or indirectly, consciously or subconsciously,

encourage very much the importation of revolvers, etc., into this country and now they have been so much encouraged in selling freely lethal arms, the Government now step in to catch hold of certain people for sending them to jail. Now, Sir, it is far too late in the day to stop this illicit traffic in arms by legislation of this kind as has been suggested by Mr. Ray. Therefore, it is in the fitness of things that Government must try ordinary laws in the country. If Government, as I have already suggested, would give arms to the people and if some committees for watch and ward are formed in different parts of the country, then and then only Government will be able to put a stop to the terrorist movement. If people are taken into confidence, I think no necessity would arise for enacting this law. Mr. Ray has suggested that there is some motive behind this legislation and I fully agree with him.

Government tried an Act of this nature not certainly for this purpose but for other purposes for which of course some other Acts were passed such as trial *in camera*. They started the Rowlatt Act. What happened? The result was absolutely nothing. From the Rowlatt Act right up to the present time we have noticed that the Government have had to pass Acts after Acts and even trial *in camera* failed. Here also I must say that Government is giving again additional power to the Police. The Police will naturally be given the power because it has been suggested here that the Commissioner of Police and the District Magistrate——

(Here the member reached his time-limit and had to resume his seat.)

Mr. C. C. MILLER: Sir, in submitting this Bill the hon'ble member sketched briefly recent developments in the trade in illicit arms.

There is in Calcutta a big demand for pistols for the purpose of murder and on account of this demand there is a trade in smuggled pistols which is extremely remunerative to those who participate in it.

It is attractive to a foreign sailor to buy a pistol cheap in a Far Eastern port or even, as Mr. Banerji suggests, in a Western port and to sell it for many times its value in Calcutta.

From the point of view of the Calcutta dealer, however, the trade, though very profitable, is very dangerous. When suspicion is directed towards him the possession of stocks of illegal arms is difficult to conceal and forms damning evidence against him.

The dealer in illicit arms has, therefore, become what the hon'ble member was pleased to term "a broker", that is to say, he no longer carries stocks but acts as a go-between between the purveyors of the

pistols and the men who desire to commit murder. He haunts the docks and jetties and the less reputable quarters of Kidderpore with a view to getting into touch with foreign sailors, directing them to the right quarter in which to trade their smuggled arms and encouraging fresh smugglers by pointing out the advantages of the trade.

Now, Sir, in the first place, I object to the use of the word "broker" in this connection. A broker to my mind signifies an honest man, acting as a go-between in an honest trade, and there is only one trade that I can think of which is as odious, as cruel and as cowardly as this trade in smuggled pistols. In that trade the go-between is known as a pimp, so let us describe this man more fittingly as a "pistol pimp", and let us for a moment consider his business.

It commences at the time when he has got into touch with his foreign sailor and the next stage comes when he has pocketed the commission earned by him for his traffic in human life. The contract is completed and shelved probably weeks or months later when a pistol shot rings out and, if the assassin is fortunate, an innocent man dies.

The victim may be any one. He may be a loyal and trusted servant of the Government, Indian or British. He may be a man of wealth murdered for his money or for private revenge. He may be an obscure station coolie shot down for no conceivable motive other than lust of cruelty.

The "pistol pimp" cares little about this. He knows that he is engaging in a traffic which has as its objective the destruction of human life, but the identity of the victim matters nothing to him. His sole concern is that murder shall bring him as much money and as little risk as possible.

It is to this man that Government propose to apply the principles of the Goondas Act and in our opinion a *goonda* is a man of honour and courage when compared with the "pistol pimp". The only punishment which the latter will receive when detected in his foul traffic is to be sent away from the scenes of his activities, and should he fail to obey these orders or return before the period of his externment has expired, he may suffer imprisonment.

Whilst this group supports Government in all measures to suppress the murder trade, we could have wished that the penalties against this type of miscreant had been made far more severe.

Of course, Mr. Shanti Shekhareswar Ray opposes the Bill. He has told us on several occasions that he detests terrorism, but from all that he has said it appears quite obvious that he detests even more all measures which Government may introduce to suppress terrorism. He has talked windily about standards of justice and fair play—fine words, indeed, but hardly applicable to a foul trade. He has stated that Government are unable to cope with the growing menace of terrorism,

and himself does his utmost to impede Government in the task of coping with it. He has stated that he cannot understand why Government is in a hurry to put this Bill on to the Statute Book. I can explain that to him quite simply. Government is in a hurry, and all who wish well to this province are in a hurry, simply because to-day murder and attempted murder are rampant in Bengal.

I give Mr. Ray credit for reading the daily paper, and he may within the last day or two have seen something in the press about a recent occurrence at Chittagong. Throwing his mind back a little he may be able to remember other affairs of a similar nature within the province.

I also heard Mr. Ray state that even if this particular avenue of supply be closed there are other methods by which evilly disposed persons can procure arms. I will not pit my knowledge of the question against that of Mr. Ray, but I suggest that Government take his hint and besides closing this avenue take measures to close all other avenues —measures which will, of course, be hotly opposed by Mr. Ray.

Sir, speaking on behalf of this group, I wish to say that we support the motion.

Nawab MUSHARRUF HOSAIN, Khan Bahadur: Sir, I welcome this measure on the ground that it is a novel way of disposing of some of the dangerous people. So long we had been thinking of imprisoning people and sometimes giving them pensions for themselves and their families, but this time I see a novel procedure has been adopted and I congratulate the gentleman who has initiated this. So far as the persons, who would be treated by this Bill, are concerned, they would have been treated no doubt without this Bill, but the novel way of disposing of those people makes me stand up and say that if the Government had followed this novel way of disposing of those people who are getting pensions from Government, we would have welcomed such a measure all the more heartily. What has been proposed here? As far as I can see from the Bill—unfortunately the Bill is not with me now—it provides that certain classes of people will be sent out of Bengal. That is one of the principal punishments that has been provided for in this Bill. That is not much. If a particular man has become obnoxious and for that if we have not to spend anything by way of giving pensions to his family, I think it is all right. If my friend the hon'ble member would like to give pension to the family of this man, we, who are really paying the taxes, will suffer. The persons who will probably be affected by this Bill are foreigners otherwise if they were Bengalis they could have been treated under a lot of Acts which have been passed by this House. As far as I can understand probably a lot of non-Bengalis are in it, and the Government really wants to tackle all those non-Bengalis.

They may be Chinamen, they may be foreign sailors, they may be other people, I do not know. So if they can be sent out of Bengal what harm is there for us, and I hope that this Bill will be followed by other Bills and all these dangerous people may be sent out of Bengal and we may be relieved of a lot of expenses that are now being incurred in jails and houses of detention. This is the reason which has prompted me to rise and support this motion.

Babu JITENDRALAL BANNERJEE: Sir, it goes without saying that I give my wholehearted support to this Bill. It is a measure that is urgently needed and it has been introduced not a bit too soon; but I do not understand what point Mr. Hogg and Mr. Miller tried to make when they said that these arms were smuggled from eastern ports. Perhaps they tried to imply that these sorts of crimes were peculiar to the eastern countries and therefore we people must stew in our own juice.

Mr. C. P. HOGG: Might I explain, Sir, that when I said that these arms seemed to come from vessels coming from the Far East I did not mean to imply that the arms were manufactured in those eastern ports. What I meant to say was that these arms, as far as the records go to show, come not only from Belgium and Germany but from several other places and they come circling round.

Babu JITENDRALAL BANNERJEE: But I wanted to read that implication in his speech and his language justified that. So far as my information goes, most of these smuggled arms are of Belgian and Continental make. These revolvers mostly come from Belgium, where they cost Rs. 25 or so, and are sold in Calcutta for anything between Rs. 150 and Rs. 200. It means a profit of 600 to 900 per cent. That is a fact which ought to be known to every member. Considering the fact that the profit is excessive and that a large and extensive smuggling business is going on in Calcutta, it ought to be put a stop to. I think the Bill has not come a day soon. In fact Government has been remiss in this matter so long. My idea is that the hands of this Government have been held up from higher quarters. I welcome that the Government should come forward in this matter. As to Mr. Shanti Shekhareswar Ray's criticisms, I may say that much of them were irrelevant. He did not touch the provisions of the measure at all; he went on a track of his own. I concede that measures like this, measures of extraordinary legislation which empower the executive with powers which are not amenable to revision are evil features, they are contrary to the very principle of jurisprudence. The introduction of such a measure is an all-round evil. It demoralises the administration, it demoralises the people, it unlooses the very fabric of social structure.

These laws are as anti-social as the crime which it is sought to cope with. The only question is, is the crime of terrorism very rampant? Is the evil so bad, so pernicious that this kind of drastic remedy is called for? So far as that question is concerned, measures like this are urgently needed and will be urgently needed so long as the evil is not suppressed by the combined forces of public opinion of this province. I do not know what point Mr. Shanti Shekhareswar Ray sought to make out. Is it denied that murders are being committed every day? No one would say so. Could it be denied by any person of sense that terrorist crimes are rampant in the land? The echo of the Burge murder has not died out when we have another outrage, an attempt which might have entailed a hideous crime, made the other day at Chittagong. These crimes, most of them are perpetrated with the help of smuggled arms and not stolen arms as suggested by Mr. Shanti Shekhareswar Ray. Is it denied that there is an extensive trade in smuggled arms? If so, is it not necessary that this trade should be checked? Is any power too drastic for such a foul, treacherous and ugly business like this? It has been said that this measure does not even touch the core of terrorism and that it is not intended to do so. It is poisonous and fatal, it is like the Upas tree of Java. It is fed from many sources. Partly it is a habit of mind and partly it is due to a certain amount of sneers and jeers of public men, which is beyond the possibility of law to cure. We have to depend upon the slow growth of public opinion, the slow growth of social and political sense of our people for its cure. Time is needed for it, and this kind of legislation will not solve the problem. Terrorism is spread also by a certain section of the public and press. This section of the public and press are always loud in their professed condemnation of terrorism, but whenever the least step is taken for its suppression, they come out with their jeering remarks, and this attitude on their part indirectly contributes to the growth of terrorism in this province. It is also aided by an unchecked and uncontrollable trade in arms. Terrorist crimes are perpetrated with this kind of smuggled arms. It is with the least branch of the evil, more or less a humble branch of the evil, that this legislation is intended to deal, and I can hope that the measure will achieve the success it deserves.

Khan Bahadur Maulvi AZIZUL HAQUE: I shall only content myself by adding to those remarks of my friend, Babu Jitendralal Bannerjee, that even if the trade in the smuggling of fire-arms or the crime in some form or other is not extensive, but only a few, society demands this measure to check that also. Even if I find that there is a single case of revolver being imported—whether from the Far East or from the Far West, it does not matter—and that arm is used for armed robbery, I think it is the duty of the legislature to intervene even for the sake of one single crime. That is what I have got to say.

As regards the remark of Nawab Musharruf Hosain that it is a novel remedy, I will only ask my friend to go through the pages of the history of Modern Europe. I do not think it is too much for the State to expect us to lend our support to the measure so that they might extern criminals. I think in a measure of this nature it is the duty of all citizens to give their full support.

I could have understood the opposition of my friends, Mr. Shanti Shekhareswar Ray and Mr. P. Banerji, if they had asked the Government to reconsider certain provisions of the Bill. They do not oppose the motion on that ground. They oppose the Bill itself. May I ask my friends through you, Sir, as to how it would be possible to check a man who is thinking of importing an arm from a foreign country, except through the civil or criminal court of law? After all, as Mr. Hogg has pointed out, the law courts will no doubt require a certain amount of evidence. Crimes are committed in darkness behind human vision, but society has always dealt with this sort of crime also in a manner which, I think, might profitably be studied by those who want this Bill to be thrown out.

Mr. C. P. HOGG: Mr. President, Sir, this Bill has received such a large measure of support in this House that it is hardly necessary for me to add anything to what has been said. The critics of the measure have already been so severely trounced by my friend Mr. Jitendralal Bannerjee and others that I am quite content to leave them in their hands. I should like, however, to make one or two remarks on particular points that have been raised. I might say that so far as the figures are concerned, the percentage of smuggled arms which are used in the commission of crimes to which reference has been made is very large. We put it at about 80 *per cent.* The remaining 20 *per cent.* may be committed by arms which have been stolen or otherwise received in India. But the figures, of course, cannot always be accurate in a matter of this kind.

With regard to Mr. Miller's observation that he did not like the use of the word "broker", I might point out that this word appears only in the Statement of Objects and Reasons and does not appear, so far as I recollect, in the body of the Bill itself. In using the word we are only using a term the meaning of which is well known in Calcutta. The broker or the agent or the go-between is an insidious and persistent person, and Government believe that they have found the only method of dealing with this new development in the arms trade, namely, deportation. I trust, therefore, that the House will lend the full weight of its authority to a measure which aims at destroying a diabolical traffic which constitutes a grave and growing menace to the peace and security of the province.

MUNINDRA DEB RAI MAHASAI: I beg to move that after the name of Mr. G. P. Hogg, the following names be inserted, namely:—

Mr. P. Banerji,

Mr. Ananda Mohan Poddar, and

Mr. Shanti Shekhareswar Ray.

Sir, in moving this motion I should like to observe that we condemn terrorism from the very bottom of our hearts and it is needless to add that the measures taken to suppress it have our entire sympathy. The difference between us and the Government lies with regard to some of the methods adopted to suppress them. Nobody can deny that firearms are used by the terrorists in furtherance of their nefarious acts. How do they procure these firearms? Government held that they were smuggled by seamen through intermediaries, and this Bill is intended to take drastic action against these unscrupulous men. The object is no doubt sound but the powers which this legislature is asked to give to the executives are no doubt very wide. By the passing of this Bill, anybody can be externed like *goondas*, under the Goonda Act, on mere suspicion. This is a dangerous provision no doubt. An innocent man who is not in the good books of the Police or incurs their displeasure for some reason or other may run the risk of being classified as a suspect and made to suffer in consequence. Due caution and circumspection are, therefore, necessary in passing a measure like this. As the Bill had not the advantage of being scrutinised by the public as it was not circulated among them for eliciting their opinion thereon, great care should be taken in the appointment of members of the Select Committee. To come to a proper understanding and decision, due consideration should be paid to different points of view. The Member in charge of the Bill has proposed ten members for the Select Committee. I do not like to question the ability of those members in the due discharge of their duties, but I am bound to say that all sections of the House have not been properly represented in the Select Committee. It is not fair that there should be a predominance of "safe" men to ensure safe and smooth sailing in the Select Committee stage. I have, therefore, proposed the addition of three more members from the opposition side with a view to make the Select Committee a more representative body. In this rough and tumble world, self-satisfied condition or rather smooth sailing brings in stagnation in life which is not at all desirable in the best interests of society. We should not lose sight of the fact that opposition brings out the strength of a cause. Opposition will, I hope, make the Bill more lively and helpful in giving it a better and practical shape.

With these few words I commend my motion to the acceptance of the House.

Mr. G. P. HOGG: I oppose the motion of Munindra Deb Rai Mahasai. The Bill is small and the Committee already selected is sufficiently large and representative to deal with it.

The motion was then put and lost.

The original motion was then put and agreed to.

The Bengal Nurses Bill, 1933.

The Hon'ble Mr. R. N. REID: I beg to move that the Bengal Nurses Bill, 1933, be referred to a Select Committee consisting of—

(*1*) Mr. D. J. Cohen,
(*2*) Seth Hunuman Prosad Poddar,
(*3*) Rai Bahadur Dr. Haridhan Dutt,
(*4*) Dr. Sir Nilratan Sircar, Kt.,
(*5*) Babu Satya Kinkar Sahana,
(*6*) Khan Bahadur Maulvi Azizul Haque,
(*7*) Mr. A. F. M. Abdur-Rahman,
(*8*) Khan Bahadur Muhammad Abdul Momin,
(*9*) Khan Sahib Maulvi Mohammed Basir Uddin,
(*10*) Mr. Sarat Kumar Roy,
(*11*) Mr. C. C. Miller,
(*12*) Mr. H. P. V. Townend,
(*13*) Col. D. P. Goil, and
(*14*) the mover,

with instruction to submit their report as soon as possible and that the number of members whose presence shall be necessary to constitute a quorum shall be seven.

The House will doubtless remember the observations with which the late Hon'ble Sir William Prentice introduced this Bill on the 29th August last, when he moved for its circulation. He showed then that the idea of arranging for the better training and instruction of nurses and midwives in Bengal was one for which the demand had been shown as long as 10 years ago, and that there was a demand from among the nursing organisation itself and that the Nursing Committee, which recently sat in Calcutta and visited, I believe, every nursing institution which maintained nurses, put this proposal at the head of their recommendations. The Bill has since been circulated for opinion and a certain number of opinions have been received. It cannot be said that the response to the request for information has been very large. Only 7 have been received in response to letters which were sent to 17 bodies and persons. However, certain criticisms have been received and I

will just run through them very shortly. One of these is sponsored by the National Medical Institute, and I find that the Indian Medical Association and the Bengal Nurses' Association repeat this criticism very much in the same terms, and that criticism is this, that the Bill should wait until we get the new Constitution. I must confess, Sir, that I am quite unable to see the remotest connection between the two. The standard of efficiency of nurses or the agency which it is proposed to introduce for the registration of nurses has no bearing whatever on the presence or absence of a new constitution, and I venture to think that this criticism will not carry any weight with this House. The same Institute, the National Medical Institute, puts forward the analogy of what happened in England. Apparently in England it took a very long time for the British people to see the desirability of registration of nurses. If we admit that they were slow in doing this, that is no reason why Bengal should be equally so, and I would rather suggest that we should profit by that example and see to it that we get on with this very desirable work as soon as possible.

Another criticism is perhaps on more practical grounds. It was suggested that more attention should be paid to the training of Indian nurses rather than to initiating—these are the words of the criticism—"initiating this measure which is practically hampering the training of Indian nurses". This is really rather begging the question, and the point is whether this proposal is going to hamper the practical training of Indian nurses. This criticism was touched upon by the late Sir William Prentice when he was replying to the debate in August last. He pointed out that the difficulty, perhaps the main difficulty, of getting suitable nurses in Calcutta was the fact that they have no prospects. Well, I venture to think that if you have a better system of registration of nurses you at once improve the prospects of the nurses. If there is no system of registration, no standard of efficiency, and no standard of instruction, then all persons who set up to be nurses are on the same level, and people who want to employ nurses can only find by experience whether they are good or bad. On the other hand, if you have a system of registration, admission to which involves instruction in a recognised institute then any one who has passed the examination will be given a certificate or diploma, and has something to show in proof of his qualifications. It means that those who have taken the trouble to pass the examination and qualify themselves have a pull over those who have not and their prospects are better. I venture to suggest also that it is vitally important that we set a high standard of nursing not only for the sake of the profession itself, which has been rather emphasised in some of these criticisms, but for the sake of the public who are going to employ those nurses.

Another point which is touched upon in some of these criticisms is that you are going to set too high a standard, you are going to make the course of instruction too difficult, too expensive for the type of persons who will be anxious to come under instruction. Well, I think this is not a question which forms a criticism of the Bill so much; it is more a question of the standard which will be set up by the Council which it is intended in the Bill to set up to lay down the standard of instruction and methods by which a candidate will be examined, and generally the working of the Act. There is one small point raised, and that is that health visitors should not be included in the scope of the Bill. The meaning of this, as far as I can understand, is that it is believed or held in some quarters that the profession, or whatever you like to call it, of health visitors should be confined to persons in the lower ranks of the medical faculty, and that therefore those persons with rather lower medical qualifications should not have to suffer from the competition of qualified nurses. I am not aware that there is any rule or law which prevents any local body from employing nurses rather than medical qualified persons as health visitors. But it is a fact that such persons are employed by local bodies, and this profession was also included in response to a resolution of the Trained Nurses Association, with which the State Medical Faculty agreed.

I do not think I need go into any further details with regard to the Bill at this stage. There is a motion tabled for recirculation which I trust the House will not accept. I suggest that ample time has been given for the receipt of opinion on this, and for the public in this House to make up their minds on the subject of this Bill, and re-circulation would merely be a waste of time on a matter which it is of some importance to get through quickly.

I do not see anything has occurred to show that there is anything to be gained by any further delay in the matter. I move that the Bill be referred to Select Committee.

Rai Bahadur SATYENDRA KUMAR DAS: Sir, I beg to support the proposal that this Bill should be referred to the Select Committee. The objections raised against this Bill by men like Dr. Naresh Chandra Sen Gupta, who, I may be pardoned to say, is a Doctor of Law and not of Medicine, were adequately met by the supporters of this Bill. During the last session Rai Bahadur Dr. Haridhan Dutt, who is a Doctor of Medicine, thoroughly discussed the objections raised against this Bill. It would be of no use to repeat them here. The ultimate object of this Bill, in the language of the late Sir William Prentice, the then Home Member, is to "produce qualified nurses in whom the patients and doctors can have confidence". I am not a Doctor neither of Law nor of Medicine, but I can speak from the experience of

patients, and as a member of the Governing Body of the Dacca Mitford Hospital, that we have very little confidence upon our unqualified Indian nurses. They are passed by private institutions for training nurses as qualified with practically no qualification. This Bill, I hope, will make our Indian nurses fully qualified because it will hold before the profession a good prospect. It will, therefore, encourage the coming in of a good number of our educated sisters to the nursing profession. Will that not be a good to the public? Dr. Sen Gupta was pleased to remark "but there is no provision for any school for the training of nurses". Sir, to that remark of my esteemed friend I beg to say how the postponement of this Bill can manufacture schools for training of nurses. There is a provision, a clear provision, for "the recognition of institutions competent to undertake such training". This certainly includes schools for training of nurses. The passing of this Bill may be a bad thing for disqualified nurses and bogus institutions which produce disqualified nurses and force them upon the public. Does any one want such a thing to continue? I hope not. The passing of this Bill would raise the status of the profession of nurses, and our educated sisters would gladly join the profession in numbers when they will find good prospects before them. Therefore, Sir, I beg to support this motion before the House.

Mr. PRESIDENT: The House will observe that three amendments were tabled for enlarging the size of the Select Committee but I find that only one out of these three is in order and that in respect of three names only, *viz.*—

Mr. P. Banerji,

Mr. R. Maiti, and

Rai Bahadur Jogesh Chandra Sen.

The other two amendments fall to the ground because the intending movers thereof have failed to obtain the consent of the members, so I call upon Munindra Deb Rai Mahasai to move his motion as modified by me.

MUNINDRA DEB RAI MAHASAI: I beg to move that after the name of Col. D. P. Goil the following names should be inserted, namely:—

Mr. P. Banerji,

Mr. R. Maiti, and

Rai Bahadur Jogesh Chandra Sen.

The Hon'ble Mr. R. N. REID: I beg to oppose the Rai Mahasai's motion. The names which are already on the list for the Select Committee which I read out have been chosen with some care in order to represent all possible shades of opinion, and I suggest that if the names which the hon'ble member would like added, were added, it would throw the Select Committee out of balance and I do not think it would add great deal to our assistance. I, therefore, oppose the motion.

The motion was then put and lost.

The motion that the Bengal Nurses Bill, 1933, be referred to a Select Committee consisting of—

(*1*) Mr. D. J. Cohen,

(*2*) Seth Hanuman Prosad Poddar,

(*3*) Rai Bahadur Dr. Haridhan Dutt,

(*4*) Dr. Sir Nilratan Sircar, Kt.,

(*5*) Babu Satya Kinkar Sahana,

(*6*) Khan Bahadur Maulvi Azizul Haque,

(*7*) Mr. A. F. M. Abdur-Rahman,

(*8*) Khan Bahadur Muhammad Abdul Momin.

(*9*) Khan Sahib Maulvi Mohammed Basir Uddin.

(*10*) Mr. Sarat Kumar Roy,

(*11*) Mr. C. C. Miller,

(*12*) Mr. H. P. V. Townend,

(*13*) Col. D. P. Goil, and

(*14*) the Hon'ble Mr. R. N. Reid,

with instruction to submit their report as soon as possible and that the number of members whose presence shall be necessary to constitute a quorum shall be seven was then put and agreed to.

The Bengal Non-Agricultural Lands Rent Settlement Bill, 1933.

The Hon'ble Sir PROVASH CHUNDER MITTER: I beg to introduce a Bill to provide for the settlement of rents of certain non-agricultural lands in Bengal.

The Secretary then read the short title of the Bill.

The Hon'ble Sir PROVASH CHUNDER MITTER: I beg to move that the Bengal Non-Agricultural Lands Rent Settlement Bill be circulated for the purpose of eliciting opinion thereon before the 10th April, 1934.

In moving this motion I wish to be brief, because at this stage we are not discussing the principles of the Bill. At a subsequent stage, after we have collected opinions, and if it is decided to refer the Bill to a Select Committee, the Council will have an opportunity of examining the principles, but at the present moment I will just indicate the reasons which have actuated Government in bringing forward this Bill.

Gentlemen of the Council will perhaps remember that as regards the assessment of agricultural lands there is Regulation VII of 1922 and Chapter X of the Bengal Tenancy Act. Therefore, there is a definite statutory basis on which these assessments can be made. In the case of non-agricultural lands, however, assessment can only be made under Regulation VII of 1922. It has been held by the High Court a long time ago, and I believe there are other decisions of higher authorities too, that in an assessment under Regulation VII of 1922 if the rent settled is accepted by the tenant, well and good, but if it is not accepted by the tenant it is not binding on him. The result is often a very cruel remedy. Supposing the rent is not accepted by the tenant and the Collector thinks that the existing rent is too little, then in certain cases he has to sue in ejectment. It is not the intention of Government that they should take possession of *khas mahal* lands in this way. They think that the interest of both the tenant and the Government will be amply protected if a reasonable rate of rent can be obtained from those lands.

There are other anomalies, into which I need not enter at the present stage. The object of the Bill is to place on a statutory basis the principles of assessment of non-agricultural lands. As to whether the principles we have suggested in the Bill would commend themselves to the House or not—that we can discuss later, first when I move for reference of the Bill to a Select Committee, then in the Select Committee and ultimately in the House itself. But as it is a Bill of a far-reaching character and may affect many interests—according to our view it will affect them beneficially—we decided that instead of moving for a Select Committee we should ask for public opinion and as there are no amendments against this motion, I need not say anything more. With these preliminary remarks I commend my motion to the acceptance of the House.

The motion was put and agreed to.

The Presidency Small Cause Courts (Bengal Amendment) Bill, 1933.

The Hon'ble Mr. R. N. REID: I beg to move that the Presidency Small Cause Courts (Bengal Amendment) Bill, 1933, be referred to a Select Committee consisting of—

(*1*) Mr. N. G. A. Edgley,

(*2*) Khan Bahadur Maulvi Azizul Haque,

(*3*) Mr. H. R. Norton,

(*4*) Maulvi Syed Nausher Ali,

(*5*) Babu Khetter Mohan Ray,

(*6*) Mr. L. T. Maguire,

(*7*) Mr. Mukunda Behary Mullick,

(*8*) Mr. Narendra Kumar Basu,

(*9*) Rai Bahadur Sasonka Comar Ghose,

(*10*) Mr. S. M. Bose,

(*11*) Maulvi Tamizuddin Khan, and

(*12*) myself,

and with your permission, Sir, I wish to make a small alteration in the remainder of the motion, so that it would read—

"with instructions to submit their report as soon as possible—instead of 7 days from the date on which this motion is carried in Council—and that the number of members whose presence shall be necessary to constitute a quorum shall be five."

This Bill was introduced on the 10th August last and the House decided then that it should be circulated in order to elicit public opinion. Opinions have since been received and Government now propose to return to the original motion for reference of the Bill to a Select Committee.

I should remind the House at the outset that this Bill is a direct outcome of one of the recommendations of the Retrenchment Committee and I would submit that any recommendation of that Committee does in these very difficult financial days merit the most serious consideration of this House. There has been no lack of criticism of this Bill: it was apparent both at the debate of August last and in the

substance of the criticisms which have since been received. The first ground of criticism has been based a great deal on what might be called historical grounds. It is said that the Presidency Small Cause Courts were introduced with the primary object of providing a summary and a speedy procedure for the settlement of disputes as opposed to the rather cumbrous and dilatory procedure of the *mufassal* courts. It was also said that this Bill will vitiate the summary and speedy character of the procedure of the Presidency Small Cause Courts. Under its present designation the Presidency Small Cause Court springs originally, at one point at least, from Act IX of 1850—an Act which was subsequently repealed by Act XV of 1882. It is perfectly true that the expression used in section 25 of the Act of 1850 is that all suits brought into the courts "shall be heard and determined in a summary way". At the same time, if one examines the remaining sections of the Act of 1850 it would be apparent that the procedure then laid down was of quite an elaborate character; the procedure under the Act of 1882 was certainly made somewhat less elaborate, but here, again the rules of procedure which govern the business of the court are very full and I might almost say elaborate. And I think it is agreed in many quarters—it is the opinion of great many people who have ample experience of the working of the Presidency Small Cause Courts—that the procedure has lagged behind in the matter of promptitude and efficiency. I think I am right in saying that the Civil Procedure Code has never been entirely applied to the Presidency Small Cause Court though the High Court have power to do so. Be that as it may, I find it a little difficult to understand how the proposals of the present Bill which are designed to impose fees in certain cases, to abolish the return of half the fees in the case of compromises, to make certain provisions for safeguarding pauper suits and also to give Government extended powers of varying the amount of fees are really going to make very much difference in the cumbersomeness of the procedure or reduce or detract from the promptitude of the procedure of the courts. It is true that it is provided in this Bill that in certain cases applications are to be made in writing which, I gather, previously could be made verbally. I think that criticism is one which cuts both ways. For instance one Judge has stated that he prefers an application in writing instead of a verbal one while sitting in court, with noise going on both inside the court and outside in a busy street, and also to have a written record which in case of dispute is more valuable than the memory either of the Judge, or the litigant or his representative.

A great deal has been made of an objection based on the ground of the rate of institution fees of these courts. I admit, Sir, that they are higher in Calcutta than in the *mufassal*, but I venture to suggest that the importation of this argument tends to obscure the issue. The rate of institution fees which we find in section 17 of the Act of 1882 repeats

that which is found in section 19 of the Act of 1850, and it was subsequently enhanced when other fees were also enhanced by the Bengal Act of 1922, that is the Bengal Court-fee (Amendment) Act. Actually I think I am correct in saying that the full rate of fees which may be applied has never been applied, because Government has discretion to apply up to a certain maximum but has never yet done so. The differential rate of institution fees is no doubt based on the fact that in Calcutta you have a Small Cause Court which is of much superior character to the small causes courts in the *mufassal*: you have a far superior, far better qualified and much higher paid judiciary; you have also a superior process-serving establishment and it is reasonable and right that a higher fee should be paid to get those higher privileges and advantages. That is the reason why we have a high rate of institution fees but there is no reason whatever why the high rate of institution fees should be used as an argument to keep the other fees down below the level which obtains elsewhere. As I said before, these fees are variable by the order of Government and it is always open to those interested to make out a case for their reduction.

To turn to another point. It is difficult to see what justification—and I must say after reading the opinions which we have received that I find very few good reasons have been advanced for it—there is to maintain the privileged position of Calcutta litigants in respect of applications under section 31 of the Act. It seems to me no reasonable argument has been adduced in favour of doing so.

The question of the return of fees in cases of compromise, which, if I remember aright, Rai Bahadur Dr. Haridhan Dutt was very interested in on the last occasion when the Bill was debated, is another one. The return of half fees in cases where a compromise has been effected is peculiar to Calcutta and is found nowhere else outside. It is hard to say why this differentiation exists. And from the financial point of view which, as I said at the beginning to-day, is an important one seeing that this is a Bill which arises out of the recommendation of the Retrenchment Committee, the amount at stake or concerned in the return of court-fees is considerable. The amount returned in the shape of half court-fees in these compromised cases during the last 3 years is a matter of some eighty thousand rupees, which is no inconsiderable sum. At the same time I quite appreciate the point which was made by the Rai Bahadur and I quite appreciate that people should be encouraged, if they can be reasonably, to arrive at compromises in their suits rather than prolong litigation. At the same time I rather wonder whether the community is not paying too high a price in the way of inducement to people to compromise in the Presidency Small Cause Courts under the present rule. However, that is a matter which I have no doubt will be carefully gone into in the Select Committee.

A good deal of discussion occurred, Sir, over the rather technical matter of whether the court of small causes was a court of record or not. This is a highly technical matter which gentlemen in the legal profession can discuss better than I can, but this is a matter which I do not think really concerns us very much in this Bill and I think that is not also a matter which need detain us here to-day. It will no doubt be gone into in the Select Committee in due course.

I do not think I need enter into further details of the Bill. That will be done by the members of the Select Committee, but I do hold that there is a good case for referring this Bill to the Select Committee, and I can assure the House that all reasonable proposals for improving the Bill or taking away from it its defects, whatever they may be, will receive full consideration.

Mr. PRESIDENT: Of the four amendments, we are now concerned with only one; the last three are out of order as the movers have failed to obtain the consent of the members whom they have proposed for the Select Comittee.

MUNINDRA DEB RAI MAHASAI: I beg to move by way of amendment that the Bill be recirculated for the purpose of eliciting further opinion thereon before 30th April, 1934.

Sir, the Bill was circulated for eliciting public opinion thereon. If the opinions be carefully scrutinised it will be found that most of the public bodies have expressed their disapproval of the provisions of the Bill, especially with regard to the additional and increased rate of court-fees to be imposed. It should not therefore go to the Select Committee but should be recirculated. Government should not sell justice to make it a profitable concern. It should charge not a pice more than what is absolutely necessary to maintain the courts. Although the selling of justice is repugnant to oriental ideas we have no other alternative than to put up with it as our Government is run by businessmen. But in all fairness they should not make profit out of the dispensation of justice.

The Hon'ble Mr. R. N. REID: I beg to oppose this motion. The mover, if I understood him aright, stated that most of the opinions which had been received as a result of the previous motion for circulation were not in favour of the Bill and therefore he thought that it was a good ground for having it recirculated. I do not know whether this is

done out of kindness to Government in the hope that fresh circulation will be in favour of the Bill. In any case I beg to oppose this motion. It merely means more delay.

The motion was then put and a division taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Armstrong, Mr. W. L.
Bakah, Maulvi Syed Majid.
Banerji, Mr. P.
Birkmyre, Mr. H.
Chaudhuri, Babu Kisheri Mohan.
Choudhury, Maulvi Rural Abear.
Dain, Mr. G. R.
Fazlullah, Maulvi Mohammad.
Hoque, Kazi Emdadul.
Maiti, Mr. R.
McDiuskie, Mr. E. T.
Miller, Mr. G. G.
Mittra, Babu Sarat Chandra.
Norton, Mr. H. R.
Quasem, Maulvi Abul.
Rai Mahasai, Manindra Deb.
Ray, Mr. Shanti Shekhareswar.
Rout, Babu Noconi.
Samad, Maulvi Abdus.
Sen, Rai Sahib Akshoy Kumar.
Steven, Mr. J. W. R.
Sumner, Mr. G. R.

NOES.

Afzal, Nawabzada Khwaja Mohammad, Khan Bahadur.
Bai, Babu Lalit Kumar.
Rai, Rai Sahib Sarat Chandra.
Banerji, Rai Bahadur Kochab Chandra.
Bannerjee, Babu Jitendralal.
Basu, Babu Jatindra Nath.
Bose, Mr. S. M.
Bottomley, Mr. J. M.
Chaudhuri, Khan Bahadur Maulvi Allmerzaman.
Chaudhuri, Khan Bahadur Maulvi Nafizur Rahman.
Chaudhuri, Maulvi Syed Osman Haider.
Chowdhury, Maulvi Abdul Ghani.
Chowdhury, Haji Badi Ahmed.
Cohen, Mr. B. J.
Dutt, Rai Bahadur Dr. Haridhan.
Edgley, Mr. S. G. A.
Emaulji, Maulvi Nur Rahman Khan.
Faroqui, the Hon'ble Nawab K. R. M., Khan Bahadur.
Fawcus, Mr. L. R.
Ghuznavi, the Hon'ble Alhadj Nawab Bahadur Sir Abdelkarim, Kt., of Dilduar.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Guha, Babu Profulla Kumar.
Gupta, Mr. J. N.
Hakim, Maulvi Abdul.
Haque, Khan Bahadur Maulvi Azizul.
Hogg, Mr. G. P.
Hooper, Mr. G. G.
Hussain, Nawab Mucharruf, Khan Bahadur.
Hussain, Maulvi Muhammad.
Hussain, Maulvi Latafat.
Karim, Maulvi Abdul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Mr. Razaur Rahman.
Martin, Mr. O. M.
Mitter, the Hon'ble Sir Provash Chunder.
Mitter, Mr. S. C.
Momin, Khan Bahadur Muhammad Abdul.
Nag, Reverend R. A.
Nag, Babu Sub Lal.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Rahman, Mr. A. F. M. Abdur-.
Ray, Babu Khetter Mohan.
Ray, Babu Nagendra Narayan.
Ray Chowdhury, Mr. K. C.
Reid, the Hon'ble Mr. R. N.
Roy, the Hon'ble Mr Bijoy Prasad Singh.
Roy, Mr. Saileswar Singh.
Roy, Mr. Sarat Kumar.
Roy, Mr. S. N.
Roy Choudhuri, Babu Nem Chandra.
Sachse, Mr. F. A.
Sahana, Babu Satya Kinkar.
Sarkar, Rai Bahadur Rohini Mohan.
Sen, Mr. R. R.
Shah, Maulvi Abdul Hamid.
Singh, Srijut Taj Bahadur.
Sinha, Raja Bahadur Bhupendra Narayan, of Raghipur.
Townend, Mr. H. P. V.
Wilkinson, Mr. H. R.

The Ayes being 23 and Noes 61 the motion was lost.

The motion that "the Presidency Small Cause Courts (Bengal Amendment) Bill, 1933, be referred to a Select Committee consisting of—

(1) Mr. N. G. A. Edgley,
(2) Khan Bahadur Maulvi Azizul Haque,
(3) Mr. H. R. Norton,
(4) Maulvi Syed Nausher Ali,
(5) Babu Khetter Mohan Ray,
(6) Mr. L. T. Maguire,
(7) Mr. Mukunda Behary Mullick,
(8) Mr. Narendra Kumar Basu,
(9) Rai Bahadur Sasonka Comar Ghose,
(10) Mr. S. M. Bose,
(11) Maulvi Tamizuddin Khan, and
(12) the mover,

with instruction to submit their report as soon as possible and that the number of members whose presence shall be necessary to constitute a quorum shall be five" was then put and agreed to.

Adjournment.

The Council was then adjourned till 3 p.m. on Monday, the 22nd January, 1934, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber, in the Council House, Calcutta, on Monday, the 22nd January, 1934, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh), in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers, and 101 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Dacca Dolaikhal Improvement Scheme.

*4. **Rai Bahadur SATYENDRA KUMAR DAS:** Will the Hon'ble Member in charge of the Irrigation Department be pleased to state the present position of the Dacca Dolaikhal Improvement Scheme?

MEMBER in charge of IRRIGATION DEPARTMENT (the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim Ghuznavi, of Dilduar): As, owing to financial stringency, it is not possible to take up the entire scheme administratively sanctioned, it has been split up into two smaller schemes—(1) the City portion, and (2) the Route portion. These two schemes are under consideration.

Rai Bahadur SATYENDRA KUMAR DAS: Will the Hon'ble Member be pleased to state the cost of the two schemes separately and which of the schemes will be taken up first?

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: I am afraid I cannot carry the figures in my head, but if the hon'ble member will please see me in my office, I shall be glad to give him the necessary information.

Detenus.

*5. **Babu KISHORI MOHAN CHAUDHURI:** Will the Hon'ble Member in charge of the Political Department be pleased to lay a statement on the table showing—

(*i*) how many detenus are now in detention camps, how many in jails and how many in internment;

(*ii*) how many of the interned are now in home internment and what allowances are given them;

(*iii*) why all the interned are not home interned; and

(*iv*) what are the special conditions and terms for home internment?

MEMBER in charge of POLITICAL DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*i*) and (*ii*) A statement is laid on the table. Government are not prepared to publish particulars of the allowances that are given to home internees.

(*iii*) and (*iv*) Government are not prepared to furnish this information.

Statement referred to in the reply to starred question No. 5 (i) and (ii) showing the number of detenus in Detention Camps, Jails and in internment correct to the 28th December, 1933.

Number in Detention Camps	766
Number in Jails (including Deoli Detention Jail) under section 2 (*1*) of the Bengal Criminal Law Amendment Act ...	624
Number interned in villages ...	255
Number interned at home ..	104
Total ..	1,749

Babu KISHORI MOHAN CHAUDHURI: Will the Hon'ble Member be pleased to state if it is possible to approach Government individually for the information in clauses (*iii*) and (*iv*)?

The Hon'ble Mr. R. N. REID: I am afraid I do not quite follow the implications of the hon'ble member's question.

Rai Bahadur SATYENDRA KUMAR DAS: Will the Hon'ble Member be pleased to state whether, to effect economy and remove the cause of inconvenience, Government contemplate to reduce the number of village internees and thereby make a consequent increase in the number of home internees?

The Hon'ble Mr. R. N. REID: It is a matter which Government have to decide on questions of public safety and public interest. I am afraid I cannot give a considered answer to this question at this stage.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state what is the distinction between the Detention Camps and Detention Jails?

The Hon'ble Mr. R. N. REID: A Detention Jail is declared a jail under the Prisons Act, while Detention Camps are not so declared.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if the Buxa Detention Camp is not governed by the Jail Rules?

The Hon'ble Mr. R. N. REID: The Buxa Jail is not governed by the Prisons Act.

Bankura Medical School.

*6. **Babu SATYA KINKAR SAHANA:** (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state whether he is aware—

(*i*) that the Bankura Medical School has been doing useful work in turning out every year cheap doctors for the rural areas;

(*ii*) that it serves as a propaganda centre creating in the ignorant and illiterate non-Aryans and semi-non-Aryans a faith in surgery and allopathic medicines; and

(*iii*) that the said school has all along been suffering for want of funds?

(*b*) If the answers to (*a*) are in the affirmative, will the Hon'ble Minister be pleased to state what pecuniary help the Government have given to the said school since its starting in 1922?

MINISTER in charge of LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) (*i*) Government are aware that the school has been doing useful work.

(*ii*) Government have no information as to the effect of its activities on non-Aryans and semi-Aryans.

(*iii*) Government believe that this is not a fact.

(*b*) The question does not arise: but the questioner is referred to the information given in the reply to the resolution which he moved on 2nd August, 1932.

Maulvi SYED MAJID BAKSH: Will the Hon'ble Minister kindly explain what is the meaning of "semi non-Aryans"?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That is the expression used in the question itself.

Maulvi SYED MAJID BAKSH: I want to know the meaning of the expression.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It is for the questioner to answer.

Waiting Shed at Amnura Junction.

*7. **Babu KISHORI MOHAN CHAUDHURI:** (*a*) Is the Hon'ble Member in charge of the Public Works (Railways) Department aware—

(*i*) that there is no shed in the platform of the Amnura Junction like Parbatipur or Ishurdi; and

(*ii*) that passengers, specially ladies and children, are obliged to wait in the open place for changing trains for Katihar, Godagari and Rajshahi to their great inconvenience, specially during summer and rainy seasons?

(*b*) If the answer to (*a*) is in the affirmative, are the Government considering the desirability of urging upon the Railway authorities for the provision immediately for constructing a shed at the said junction station?

MEMBER in charge of PUBLIC WORKS (RAILWAYS) DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*) (*i*) A shed similar to that at Parbatipur or Ishurdi is not provided at Amnura.

(*ii*) A covered waiting hall 23′ × 26′ is provided in the station building and there is also a separate waiting hall for ladies.

(*b*) Government do not consider it desirable to urge the Railway authorities to provide any additional accommodation at present as the traffic does not warrant it.

Babu KISHORI MOHAN CHAUDHURI: Will the Hon'ble Member be pleased to state whether the shed referred to in clause (*ii*) is available to the third class and inter-class passengers?

The Hon'ble Mr. J. A. WOODHEAD: So far as I know, yes.

Official Receiver and management of Gangamandal Estate in Tippera.

*8. **Babu KHETTER MOHAN RAY:** (*a*) Is the Hon'ble Member in charge of the Judicial Department aware of a public complaint about the administration of the Gangamandal and other estates by the Official Receiver that it is injurious to the best interests of a large section of the public in the district of Tippera?

(*b*) Are the Government considering the desirability of making an inquiry into the matter and of moving the Hon'ble High Court for better and efficient administration of those estates?

(*c*) Besides the Gangamandal Estates, comprised in the equity suit of 1836, how many estates in other suits are at present under the management of the said Official Receiver?

(*d*) Has the present incumbent any training in the *zamindari* management and revenue matters?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*a*) and (*b*) No.

(*c*) 341.

(*d*) He has had no special training, but has had official experience with regard to such matters.

Babu KHETTER MOHAN RAY: Has the attention of Government been drawn to the report of Mr. Thompson, Settlement Officer of Tippera and Noakhali, about the inefficient administration of the Gangamandal Estates by the Official Receiver, which resulted in inconvenience and hardship upon the tenants?

The Hon'ble Mr. R. N. REID: I understand, Sir, it is a subject-matter of another question in the Revenue Department.

Mr. NARENDRA KUMAR BASU: Is it not a fact that all these matters are under the jurisdiction of the High Court and that the Official Receiver has to account for his action to the High Court?

The Hon'ble Mr. R. N. REID: I believe that is correct.

Mr. NARENDRA KUMAR BASU: Is it a fact that so far as the Local Government is concerned, it has not any administrative control over the High Court either in the appointment of its officers or in the administration of the office?

The Hon'ble Mr. R. N. REID: That is a question of which I require notice.

Mr. W. H. THOMPSON: Is Government not aware that Sir John Cumming, as far back as 25 or 30 years ago, made a survey of certain villages in these estates and reported in exactly the same manner in which I reported in my Settlement Report on Tippera?

The Hon'ble Mr. R. N. REID: That is quite conceivable, but I have not read the report and so I cannot give any answer.

Mr. W. H. THOMPSON: Is the Government aware that this subject was under correspondence with the High Court and that the High Court said that it could do nothing in the matter?

Mr. PRESIDENT: I do not think that the Hon'ble Member is supposed to answer a question like this.

The Hon'ble Mr. R. N. REID: I am not in a position to answer this question; it more or less concerns the department of Sir Provash Chunder Mitter.

Landlords' transfer fee.

*9. **Rai Bahadur SATISH CHANDRA MUKHERJI:** (*a*) Is the Hon'ble Member in charge of the Revenue Department aware—

(*i*) that landlords' transfer fee paid into the Registration Office on the transfer of a tenancy under section 26C of the Bengal Tenancy Act, along with the registration thereof, is not immediately sent to the sole landlord;

(*ii*) that the transmission is delayed from four months to more than a year after the service of notice of the transfer even upon the sole landlord; and

(*iii*) that the cost of transmission and process fees are paid simultaneously with the registration of the transfer?

(*b*) Has the matter of delay come to the notice of Government?

(*c*) If so, are the Government considering the desirability of inquiring into the cause of delay and of directing Collectors of districts to transmit immediately the landlords' transfer fee to the sole landlord along with the service of notice of such transfer?

MEMBER in charge of REVENUE DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*a*) (*i*) Yes.

(*ii*) No.

(*iii*) Yes.

(*b*) Some instances of delay occurred when the rules first came into operation. Steps were taken by Government to prevent delay, and a time-table was prescribed.

(*c*) No, but inquiries will be made if particular instances of excessive delay are brought to the notice of Government.

Maulvi SYED MAJID BAKSH: With reference to answer (*ii*), will the Hon'ble Member be pleased to tell us what, according to his information, is the reason of the delay that usually occurs in such cases?

The Hon'ble Sir PROVASH CHUNDER MITTER: I have already answered that. In the early days of these rules, there was delay partly due to some officers not being familiar but mostly due to landlords not being familiar with the rules. But things have considerably improved since then: and as I have said, if any specific instances are brought to our notice, we can deal with them.

Ganja and opium shops in Chittagong.

***10. Haji BADI AHMED CHOWDHURY:** (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries (Excise) Department be pleased to lay on the table a statement showing for the present—

(*i*) what is the percentage of the Muhammadans in Chittagong;

(*ii*) how many ganja and opium shops are in existence in Chittagong;

(iii) how many of such shops are being held by the Muhammadans;

(iv) how many are being held by the Hindus; and

(v) why the number of Muhammadan vendors is smaller in proportion?

(b) Is it not a fact that a shop has been vended to one Hindu candidate, namely, Babu Phanibhushan Dutt, a doctor?

(c) Is the Hon'ble Minister aware that there were several candidates for the said shop?

(d) If the answer to (a) is in the affirmative, what are the reasons for rejecting the prayers of the Moslems?

(e) Is it a fact that a new opium shop has been at Rustamhat (Battali) in Chittagong and a non-Muhammadan has been selected to hold the said shop?

(f) Is it not a fact that there are several unemployed educated Muhammadan candidates for the said shop?

MINISTER in charge of AGRICULTURE and INDUSTRIES (EXCISE) DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (a) (i), (ii), (iii) and (iv) A statement is laid on the table.

(v) The main reason is that the Muslims did not come forward in the past for excise licenses.

(b) The license of the ganja shop at Sitakund was given to one Phanibhusan Dutt in 1933. This license was subsequently transferred to one Maulvi Muhammad Sabar Ahmed in December last.

(c) Yes.

(d) The Additional Collector selected Phanibhusan Dutt after considering the claims of the other candidates.

(e) A new opium shop was opened last year at Rustamhat. The license of the shop was given to a Hindu.

(f) Yes.

Statement referred to in clauses (a) (i), (ii), (iii) and (iv) of starred question No. 10.

Percentage of Muhammadans in Chittagong—73·8.

Number of excise shops in Chittagong—

Ganja—31.

Opium—32.

Number of shops held by Muhammadans—

Ganja—10.

Opium—11.

Number of shops held by Hindus—

Ganja—21.

Opium—21.

Maulvi SYED MAJID BAKSH: Is the Government following one-man-one-shop policy in these cases?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I believe so.

Civil Court buildings in Dacca.

*11. **Rai Bahadur SATYENDRA KUMAR DAS:** (a) Will the Hon'ble Member in charge of the Judicial Department be pleased to state when suitable buildings for accommodating the Munsifs' Courts in Dacca are likely to be constructed?

(b) Is the Hon'ble Member aware that the existing arrangements are a source of inconvenience to the litigants?

The Hon'ble Mr. R. N. REID: (a) This matter will be considered when the financial situation improves.

(b) Yes.

Rai Bahadur SATYENDRA KUMAR DAS: In view of the reply given in (a), will the Hon'ble Member be pleased to state if there is any immediate possibility of the removal of this source of inconvenience to the litigants?

The Hon'ble Mr. R. N. REID: I should say, not.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Dankuni canal.

4. **Rai Bahadur SATISH CHANDRA MUKHERJI:** (a) Is the Hon'ble Member in charge of the Irrigation Department aware that on

account of the silting up of the Dankuni drainage canal in thana Chanditala in the district of Hooghly, the tenantry of 20 to 25 mauzas are suffering acute distress on account of their lands having been submerged in the rainy season and the growing of paddy and jute crops having been rendered impossible every year for a series of years thereby?

(b) Are the Government considering the desirability of inquiring into the matter and taking steps to remedy the same?

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI, of Dilduar: (a) The member is referred to the replies given to the question on the same subject, asked by Dr. Amulya Ratan Ghose in the August Session of the Council, 1933.

(b) A sum of Rs. 2,800 has been included for silt clearance of the Dankuni drainage channel in the Irrigation Department budget for the year 1934-35. Subject to the vote of this Council on the Irrigation Budget, the work can be started as soon as the channel dries up towards the end of the present cold weather.

Cess certificates issued in Faridpur.

5. **Rai Sahib AKSHOY KUMAR SEN:** Will the Hon'ble Member in charge of the Revenue Department be pleased to lay on the table a statement showing how many certificates were issued for realisation of arrear cess in the district of Faridpur, during the years 1931, 1932 and 1933?

The Hon'ble Sir PROVASH CHUNDER MITTER: A statement showing the figures for the financial years 1930-31, 1931-32 and 1932-33 is laid on the table. The figures for the calendar years 1931, 1932 and 1933 are not readily available.

Statement referred to in the reply to unstarred question No. 5, showing cess certificates issued during the years 1930-31, 1931-32 and 1932-33 in Faridpur.

	No. of institutions during the year
1930-31	... 47,241
1931-32	... 52,472
1932-33	... 55,818

LEGISLATIVE BUSINESS

GOVERNMENT BILLS.

The Bengal Smuggling of Arms Bill, 1934.

The Hon'ble Mr. R. N. Reid presented the report of the Select Committee on the Bengal Smuggling of Arms Bill, 1934.

Public Accounts, 1931-32.

The Hon'ble Mr. J. A. Woodhead presented the Report of the Bengal Legislative Committee on Public Accounts for the year 1931-32.

Mr. S. M. BOSE: May I have your leave, Sir, to say a few words on an important matter arising out of the report, by way of general discussion?

Mr. PRESIDENT: Yes, you may, if you so desire.

Mr. S. M. BOSE: Amongst the many interesting matters contained in the Report I want to draw attention to one particular matter, and that is the supplementary grant of Rs. 5,15,000 made in August, 1931, on a demand made by the Home Member. While moving that demand, he said that this was to meet the extra cost of bringing the police forces up to the present minimum requirements. He further said that it represented what Government considered the minimum requirements of Bengal and asked us to sanction this demand as an absolute minimum which the Government regarded as essential to the preservation of peace. I refer to Volume XXXVIII of the Proceedings of this Council at pages 559-560. Now, the actual expenditure on that head was much less, and experience has shown that this demand was considerably an overestimate. I am not complaining now of this, but what I am drawing attention to is the fact that large savings made on this and on the whole of the grant were not surrendered as they ought to have been under the rules. The Public Accounts Committee at pages 45-48 of their Report refer to some of these items, and I have gone over the various sub-heads in the Appropriation Accounts on these points at pages 153-161. I find that the total savings, without allowing for the excess expenditure on some items, came up to Rs. 1,81,600. Further, taking into account the excess expenditure under other sub-heads I find that out of the total grant for police—Rs. 2,23,60,000—a sum roughly of Rs. 2,68,000 was neither spent nor surrendered, but allowed to lapse. I wish to draw attention to this important fact.

We always complain that the transferred departments are being starved; though we do not grudge the necessary expenditure for law and order. But when there is considerable overestimate and the savings are not surrendered, I think we can reasonably complain. The amount that could be spent for, say, Medical, Public Health, Education, etc., would then have been much greater. I see that in 1931-32 the estimate for Education was Rs. 1,15,43,000, but the actuals for that year were Rs. 1,11,32,000, that is, Rs. 4,11,000 less than the amount sanctioned by this House.

As regards Medical and Public Health the budget estimate for 1931-32 was Rs. 46,30,000, but the actuals being Rs. 42,80,000; the unspent balance was Rs. 3½ lakhs. The sum allotted to these subjects is, according to us, insufficient as it is, but further inroads on them were made by the supplementary grant of Rs. 5,15,000 in August last. I find that the Police Department offered certain explanations for this failure to give up the balance in time. But I think the Public Accounts Committee have found this explanation unsatisfactory and inadequate. I desire to draw public attention to the fact that owing to this overestimating and failure to surrender money not spent, the transferred departments must have suffered severe cuts; so I am specially drawing the attention of the Home Member at this early stage when the Police Budget for the next year is being framed, so that he may be pleased to bear this in mind.

The Hon'ble Mr. J. A. WOODHEAD: Mr. S. M. Bose has made, I think, two complaints. First of all he complains that the supplementary demand for Rs. 5,15,000 in August, 1931, indicated lack of control. Sir, the budget for the financial year 1931-32 was prepared in February, 1931. If a budget has been prepared with reasonable accuracy—and I hope the House will agree that our budgets are prepared with reasonable accuracy—it is impossible to be certain in August, 4 months after the commencement of the financial year, that additional expenditure considerable in amount can be met by re-appropriation. In these circumstances, if additional expenditure considerable in amount and not contemplated when the budget was prepared, is to be incurred, Government must come up with a supplementary demand; otherwise, as I have on more than one occasion explained, if expenditure in excess of the grant is incurred, Government will be blamed for having incurred expenditure not provided for in the budget without the sanction of the Legislative Council.

As regards the savings on the budget at the end of the year, the total expenditure was in the region of Rs. 2,20,00,000, and the total savings were about Rs. 2½ lakhs. A simple arithmetical calculation will show that the savings were only a little over 1 per cent. of the expenditure. That, Sir, I consider, is quite a good record.

As for the suggestion that the transferred departments were starved because the full amount provided for by the original and supplementary demands was not spent, I would remind the Hon'ble Member that the province had a considerable deficit that year. Savings under one head, therefore, went to reduce the deficit and apart from these considerations were not available for expenditure on another head.

The Hon'ble Mr. J. A. WOODHEAD: I beg to move that in pursuance of the recommendation of the Bengal Legislative Committee on Public Accounts for 1931-32, given on page 6 of their Report, the Council do vote the excess grant of Rs. 69,269 under the head "45—Superannuation allowances and pensions" and "45A—Commutation of pensions financed from ordinary revenue" representing expenditure incurred in excess of the grant voted for the said year.

The members of this House will find the explanation of this excess expenditure in the memorandum in Appendix III to the Report of the Committee on Public Accounts.

The motion was put and agreed to.

The Hon'ble Mr. J. A. WOODHEAD: I beg to move that in pursuance of the recommendation of the Bengal Legislative Committee on Public Accounts for 1931-32, given on page 6 of their Report, the Council do vote the excess grant of Rs. 54,579 under the head "47—Miscellaneous" representing expenditure incurred in excess of the grant voted for the said year.

Again, the explanation as regards this excess grant is contained in the same Appendix—Appendix III—of the Report of the Public Accounts Committee.

The motion was put and agreed to.

The Hon'ble Mr. J. A. WOODHEAD: I beg to move that in the circumstances mentioned on pages 9 and 10 of the Report of the Committee on Public Accounts for the year 1931-32, the Council do approve the following expenditure incurred in 1931-32:—

(*a*) Rs. 25,137 on the posting of a military force to Chittagong (debited to "47—Miscellaneous");

(*b*) Rs. 42,132 on constructing temporary military barracks, etc., at Chittagong (debited to "41—Civil works").

The expenditure referred to in this motion is the expenditure incurred in 1931-32 in connection with the posting of a military force at Chittagong. The Public Accounts Committee came to the conclusion that this expenditure was expenditure on a new service and,

therefore, an expenditure for which the approval of the Council should have been obtained by means of a supplementary demand during the year 1931-32. The circumstances in which that approval was not sought will be found in the memorandum contained in Appendix III to the Report of the Public Accounts Committee. In accordance with the procedure explained at page 9 of the Committee's Report, the *expost facto* approval of the Legislature is now sought by means of this motion.

The motion was put and agreed to.

The Bengal Cess (Amendment) Bill, 1933.

The Hon'ble Sir Provash Chunder Mitter presented the Report of the Select Committee on the Bengal Cess (Amendment) Bill, 1933.

The Hon'ble Sir PROVASH CHUNDER MITTER: I beg to move that the Bengal Cess (Amendment), Bill, 1933, be taken into consideration.

(At this stage Maulvi Tamizuddin Khan rose to address the House.)

Mr. PRESIDENT: Before I allow you to speak I have got to dispose of some amendments, tabled against the motion of Sir Provash, that the Bill be taken into consideration.

Maulvi TAMIZUDDIN KHAN: I want to speak on this motion of the Hon'ble Member in charge that the Bill be taken into consideration.

Mr. PRESIDENT: There have been tabled some amendments which suggest that the Bill should be recommitted. I would first like to have those amendments moved and then throw open for discussion the original motion of Sir Provash and the amendments relating to it. Maulvi Tamizuddin Khan may speak at that stage.

Maulvi TAMIZUDDIN KHAN: Sir, may I make one point clear? The motion is that the Bill be taken into consideration. First of all I want to oppose that motion. I am not in favour of sending the Bill back to the Select Committee, but I am willing to do that only if my opposition to the substantive motion is lost. Therefore, I should be allowed, if you think proper, to speak against the motion.

Mr. PRESIDENT: I stick to my decision. The amendments should now be moved. I do not see how that can put you into any difficulty. If you do not choose to move your amendment, you may not. If you do move it, it will be discussed and while moving it, you can formulate your arguments against the Bill itself and oppose the original motion.

Maulvi TAMIZUDDIN KHAN: My difficulty is this: Supposing my Select Committee motion is carried, I cannot oppose the original motion.

Mr. PRESIDENT: Then the best thing for you would be not to move your amendment but oppose Sir Provash's motion when the right moment comes.

Maulvi TAMIZUDDIN KHAN: My difficulty——

Mr. PRESIDENT: Order, order. I can accommodate you to this extent and no further. You should not forget that, if need be, you may, with the leave of the House, withdraw your amendment at any stage.

Maulvi TAMIZUDDIN KHAN: I bow down to your decision, but it will be like putting the cart before the horse. If the motion is moved——

Mr. PRESIDENT: Order, order. I have given my decision and I stick to it.

Maulvi TAMIZUDDIN KHAN: I beg to move that the Bill be recommitted to the Select Committee with the addition of the following members:—

(1) Khan Bahadur Nawab Musharruf Hosain,

(2) Dr. Naresh Chandra Sen Gupta,

(3) Kazi Emdadul Hoque,

(4) Maulvi Abdul Hamid Shah, and

(5) Babu Amulyadhan Ray,

with instruction to submit their report as soon as possible and that the number of members whose presence shall be necessary to constitute a quorum shall be six.

Sir, I must thank you that you have allowed me to develop my arguments against the motion of the Hon'ble Member in course of my speech on the amendment that I have just moved and I will do so now.

My position is that I am against the motion of the Hon'ble Member that the Cess (Amendment) Bill be taken into consideration. Now, if I do not succeed in my attempt to throw out the Bill, then the next best thing that I would like to do would be to fall back upon my motion to send the Bill back to the Select Committee, so that there may be some improvement to the Bill as it has already emerged from the Select Committee. However, I rise to speak in opposition to the motion of the Hon'ble Member not without some hesitation, because when this Bill was first referred to the Select Committee, I was one of the members who gave their general support to the Bill. But this matter is so complicated that at that time I did not fully realise all the implications of the Bill. Now, as I have been bestowing thought on the subject, I am growing every day a bitter enemy of the proposed legislation. Therefore, it is my disagreeable duty to rise to say a few words against the proposed Bill.

Now, Sir, the main grounds of my opposition are these:—

(*i*) First, it is inequitable.

(*ii*) Secondly, it is an anti-tenant measure.

(*iii*) Thirdly, it incorporates the obnoxious commercial principle of rebate to the detriment of the interests of the local self-governing institutions of this province, such as district boards and local boards.

(*iv*) It will be unworkable.

(*v*) It is highly inopportune.

I shall now try to develop my points one by one.

The principal official excuse for introducing this Bill is that it will bring in a more equitable method of assessment of cess. Herein I entirely disagree. Taken as a whole this measure will be highly inequitable. There is nothing of equity in it except an half-hearted attempt to make a show of equity. Let me now dissect one by one its claims on this score. The present system of assessment is on a rent basis. The rent paid by the cultivating *raiyat* is taken as the annual value of a particular piece of land and assessment is made at the rate of one-anna per rupee of such annual value. Though one anna is the maximum rate leviable, in practice the maximum is in vogue in all the districts except one or two in which I am told the full rate imposed till recently has now been reduced to a certain extent. The supporters of the proposed legislation finds fault with the rent basis. They propose to substitute this by what is called the acreage rate basis. A district will either form a unit in itself or will be divided into a number of units. A uniform acreage rate will be determined for each unit and such rate may be as high as 1/5th, according to the original Bill, and 1/6th, according to the Select Committee Report, of the value of the

gross produce per acre of ordinary agricultural land in the area. The annual value of a land will be the acreage rate multiplied by the area and the cess will be levied at the rate of two pice per rupee in the maximum, on such annual value. Whatever other merit the acreage system may possess it is certain that in a large number of cases it will be inequitable in the extreme. We all know the difference in productive powers of different lands not only in the same district or subdivision or thana, but also in each village. The acreage system cannot and will not take into consideration this difference in productive powers. Once an acreage rate is fixed upon for a particular unit, it will be applied with vengeance to all lands, good, bad or indifferent. May I ask if this is equity? In this respect the present system is more sensible. As a rule if a particular land is poor in productive powers, the rent it bears is generally low and the cess it has to pay is also consequently small. Can it be doubted that this is more equitable than the proposed system. Again, the present basis, I mean the rent basis, is more tangible, more of an invariable nature than the illusive acreage rate system. I do not know why we should give up our stand on firm ground in favour of a quest after the willow-the-wisp of the acreage rate. I have no doubt that it will lead the landed interests in Bengal, particularly the tenants, into a quagmire. So much will depend upon the whims, idiosyncrasies and predilections of officers who will be entrusted with the determination of the acreage rate that there will be no uniformity in the assessment made in different districts.

Let us now examine another claim of the sponsors of this Bill. It is said that the proposed scheme will give relief to cess tenure-holders and under-*raiyats* who are overassessed under the present system. Now who is responsible for the undue assessment of the cess tenure-holder and the under-*raiyat*? I think it is not so much the present law, but the administrators of the law who are responsible. The framers of the Cess Law of 1880 did not contemplate that under-*raiyats* should be burdened with the payment of road and public works cess. It was also, perhaps, never contemplated that a class of *raiyats* would be given the strange name of cess tenure-holders and saddled with a heavier cess than other *raiyats*. These innovations were created by the administrators of the Cess Act for purposes palpable to all. Now the consciousness of the present administration, after a sleep of more than twice as long as that of our dear old Rip Van Winkle, seems to have awakened to the injustice so long done to the cess tenure-holders and under-*raiyats*. It is all so very good of them. Now the question is how to give them relief? The simple answer is to take away a portion of the burden on them. The next question that arises is where will this relief come from? Will it be by reducing the cess demand of a district? No, never. The cess demand has, on the other hand, to be increased at each new valuation. What is then to be done? Take

away a portion of the burden on those people and shift it somewhere else. Now the remaining classes of cess-payers are the landlords (*i.e.*, holders of the estates and tenures) and cultivating *raiyats* who have not sublet their holdings. On whom is the burden to be thrown? Of course on the cultivating *raiyat* is the ejaculation of the framers of this legislation. The landlords must be sacrosanct. The House will consider the kind of equity that underlies this scheme. And this is going to be done in an ingenious and surreptitious manner, though I think not in a consciously surreptitious manner. The Cess Act of 1880 contains a great safeguard for the cultivating *raiyat*. It was originally intended that the total cess should be paid by the landlord but that was not to be. All that the framers of the Cess Act could do for the cultivating *raiyat* was to limit their share of the cess to half of the total. This is laid down in section 41, sub-section 3 of the Cess Act which runs as follows: "Every cultivating *raiyat* shall pay to the person to whom his rent is payable *one-half* of the said road cess and public works cess calculated at the said rate or rates respectively (*i.e.*, the rate or rates which may have been determined for the year in question, such rate being now determined in all districts at the maximum rate of one anna per rupee) upon the rent payable by him or upon the annual value ascertained under the provisions of section 24 or 25 of the land held by him."

Now, in the case of cultivating *raiyats*, who have not sublet their holdings, the provisions of sections 24 and 25 are seldom applied. Whether that is done or not, the present law is that the cultivating *raiyats* have to pay half of the total cess and not a single pie more. The proposed legislation will rob the cultivating *raiyat* of this valuable safeguard, because sub-section 3 of section 41, which contains this safeguard, is being replaced by a section in which there is no provision limiting the cess to be paid by cultivating *raiyats* to any particular proportion.

What right have you to take away the rights of the tenants in this fashion? The landlord considers his permanent settlement, however iniquitous and however disastrous it may be to the country's good, as sacrosanct, because he has been in the enjoyment of it for a long period. He considers it as his Magna Charta. Now sub-section 3 of section 41 of the Cess Act is the Magna Charta of the cultivating *raiyat* in respect of cess. He has been under the protection of the safeguard provided by this seciton for the last 50 years. Are you now justified in robbing the poor *raiyat* of this little safeguard? This can and will never be tolerated.

I shall now illustrate by example the respective incidence of cess upon cultivating *raiyats* under the existing system *vis-a-vis* the proposed system. This will clearly set forth the hollowness of your pretensions and the inequity of your favourite system. In doing this, I must be

careful in choosing my example. A good deal of jugglery may be performed by taking examples based on fictitious figures and I have no doubt that such jugglery will be performed on the floor of this House during the discussion on this Bill. Fictitious figures will lead to false conclusions which I hope will not mislead the House.

The total revenue paid by the *zemindars* of permanently-settled estates in this province is roughly speaking 2 crores and 15 lakhs and the total rents collected by them as far as occupancy *raiyats* are concerned amount to about 8½ crores of rupees. Therefore, for every rupee of revenue paid by the *zemindar* he gets about Rs. 4 as rent from such *raiyats*. The average rate of rent of the *dejure* (Bengal Tenancy Act) *raiyat* is about Rs. 3 per acre as stated in a note that was issued some time ago to members of the Council from the Revenue Department. Keeping these figures in mind, let us take a simple case of a *zemindar* whose estate consists of 4 acres of land which he has entirely let out to cultivating *raiyats* at a total rent of Rs. 12, and there has been no subletting by these raiyats to under-*raiyats*, and the revenue payable is Rs. 3. This is a typical case as will be seen with reference to the figures I have just mentioned. Now under the existing system, the total cess payable by this state is (12×1 anna) 12 annas, of which the *raiyats* have to pay half, *i.e.*, 6 annas, and the landlord has to pay the remaining half if his estate is revenue-free. If the estate is revenue-paying, the landlord's share is a little reduced as he is entitled in that case to a deduction to be calculated at the rate of half an anna (or half of the rate at which the cess is levied in the district) per rupee of revenue he pays. In our present case, as the *zemindar* pays a revenue of Rs. 3, his share is reduced by (3×½ anna) 1½ anna and he pays 4½ annas as his share of the cess. Under the present system, the cess payable by the cultivating *raiyat*, whether on the rent basis or under the provisions of section 24 or 25 of the Cess Act, cannot be increased without a corresponding increase of the cess payable by the *zemindar* for section 41 has specified the share to be borne by each. All this is being cast to the winds by the proposed system. Let us see how the cultivating *raiyat* will fare under this system. In the example I have taken, under the coming system if the acreage rate is taken to be Rs. 10 (*i.e.*, 1/5th of Rs. 54 which is admitted by Government to be the value of the average gross produce of an acre of land) the total cess payable from this estate will be (4×10×½ anna —3×½ anna) 18½ annas. Of this amount, the *zemindar* will pay 4½ annas as under the present system, and the remainder of 14 annas will have to be paid by the *raiyats*. That is, the burden on the *raiyats* will be more than doubled. Taking the acreage rate to be Rs. 9, the total cess will be 16½ annas and the *raiyat's* share 12 annas, *i.e.*, exactly double of what it is at present. If the acreage rate is Rs. 8, the *raiyat's* share will be 10 annas, and even if the acreage rate is taken as Rs. 7 which is an altogether unlikely figure, the *raiyat's*

share will be 8 annas. This shows to what an enormous extent the burden on the cultivating *raiyats* will increase under the proposed system. Can there be anything more monstrous than this?

Let no one go on with the idea that we are not in favour of giving relief to the under-*raiyats* and cess tenure-holders. None can be more anxious to do so than we on this side of the House are. I am in favour of exempting the under-*raiyats* altogether from the liability to pay cess. That is, however, too much to expect under present circumstances. If giving relief to under-*raiyats* and cess tenure-holders were the only question before us, then that could be solved in a much simpler and much more unostentatious way. But that does not seem to be the only object. The meaning of this legislation will be that the burden on the tenants may be increased *ad infinitum* without any increase of the burden on the landlord. This is a position which no tenant can accept. The original idea when the Cess Act of 1880 was passed was that the landlord should pay the total cess. That idea could not be translated into action, and the cess burden was divided half and half between a landlord and a cultivating *raiyat*. The idea now is to make another permanent settlement in respect of cess so far as the landlord is concerned and go on increasing the cess to an unlimited extent throwing the entire burden of the increase on the tenants, particularly the cultivating *raiyats*.

The number of *raiyats* who will be thus adversely affected will be by no means insignificant. From the statistics of 18 districts supplied by the Revenue Department it will be seen that the number of holdings of *raiyats* at fixed rates is about 8 lakhs and that of settled and occupancy *raiyats* is about 95 lakhs, and of non-occupancy *raiyats* about 2 lakhs. Of these 105 lakhs, about 30 lakhs have been sublet to under-*raiyats* in part or in whole. Deducting these 30 lakhs from the 105 lakhs of *raiyati* holdings we get 75 lakhs of holdings in respect of which there has been no subinfeudation. The holders of these 75 lakhs of holdings will be most adversely affected by this legislation, and even at a modest estimate the burden on their shoulders will be doubled. If these cultivating *raiyats* pay under the present system, say, Rs. 20 lakhs of the Rs. 92 lakhs, that constitute the present cess demand of the province, they will have to pay at least Rs. 40 lakhs under the coming system. Let the House consider whether there is any reason to welcome a system like this. It must be borne in mind that the holders of these 75 lakhs of *raiyati* holdings are the flowers of the Bengal tenantry. I may sound a note of warning to the *zemindars* that it will be a monumental folly to do injustice to this quickly awakening class of tenants.

My third ground of objection is the unnecessary and altogether uncalled for introduction of the principle of rebate. The principle may have yielded golden results in the Telephone Company, but surely

this is the first time that I hear of the introduction of such a commercial principle in an affair of State. The taxes that we pay to the Government are a part of our obligations to the State which stand on an entirely different footing from civil liability to those with whom we enter into civil contracts in a private capacity. It is unfortunate that a principle hitherto confined within the four walls of contractual obligation is going to pollute the sanctity that attaches to the subject's duty to the State. And this is being done to the detriment of the interests of local self-governing bodies.

The fourth ground on which I oppose this motion is that to my mind this system will be difficult to work. There may not be any great difficulty in revaluing a district which had recently undergone cadastral survey. In those districts in which the settlement operations were held some years ago enormous difficulties will arise. Holdings have changed hands, conditions have altered, and there have been innumerable subinfeudations since the settlement operations were held in some districts about 20 years ago. The simplicity and saving in expenditure that the sponsors of the Bill are expecting will prove to my mind nothing but an empty dream.

My fifth objection is that the time is highly inopportune for a legislation like this. If any class of people has to be saddled with an additional burden of taxation, should it be done at a time when the people are on the verge of starvation, when they are sunk in debt without any hope of redemption, and when they are being daily deprived of their little all by involuntary sales? Never within living memory the Bengal *raiyat* was in such a pitiable plight! To add a single pie to their already heavy burden under the existing circumstances is nothing but the height of unwisdom and inhumanity.

The under-*raiyat* and the cess tenure-holders certainly deserve relief. They deserve relief against the arbitrary injustice done to them during the last half a century. It does not follow that in removing that injustice you must do fresh injustice to another class. That will be nothing but robbing Peter to pay Paul. The idea of additional taxation at a time like this must be dropped.

In conclusion, I would like to say that I do not ascribe any motive to the Hon'ble Member in charge of this Bill in bringing forward this measure. It was in response to our demand in this House that he has introduced this measure with the best of motives. If there is anything of an unconscious bias, no one can be blamed for that. That apart, I have nothing but admiration for the enormous pains that the Hon'ble Member and his colleagues and able assistants have taken in formulating the scheme. But, unfortunately, on examination the scheme proves to be harmful. I, therefore, appeal to the Hon'ble Member

and his colleagues not to proceed with this legislation but to make further attempts to devise a better scheme in the light of the experience that they must have gained by their recent researches and deliberations.

Babu SATYA KINKAR SAHANA: Sir, I rise to oppose the recommittal motion moved by my friend Maulvi Tamizuddin Khan. I think it does not seem very proper on the part of Maulvi Tamizuddin Khan to move this recommittal motion. Recommittal motions, as we all know, are delaying tactics. I am reminded of the proverb অতত্ত কালহরণম্, and we know that if we agreed with the Maulvi Sahib that the Bill is a monstrous one, we would have supported him. But the Maulvi Sahib, who now looks upon this Bill as a monster, a robber's artifice, welcomed this Bill only three months back as a Bill of monumental importance.

When the Bill further to amend the Cess Act, 1880, was introduced the Hon'ble Member in charge of the Bill said:—

"It is a question of adjustment between cultivator and cultivator. If you adjust between cultivator and cultivator, should you not try and see that the poor cultivators are not as heavily assessed as they have been in the past? That is one of the principal objects, and, if I may say so, the principal object of the Bill."

Maulvi Tamizuddin Khan agreed with this principle and said in his speech:—

"The Hon'ble Member-in-charge deserves to be congratulated on presenting a Bill which seeks to do away with the anomalies of the present Act and to meet the situation on the whole. I fully agree with the Hon'ble Member that the system of assessment now proposed to be introduced will be more equitable than the system in vogue."

Referring to the apprehension that the proposed system may make it possible to increase the cess he said:—

"I for myself do not object to the cess being increased when there is a proper occasion for it."

He concluded by saying—

"Of course, if the circulation of the Bill will in any way jeopardise the chance of its being passed into law, I shall be the last person to press for that, because I feel that a change is really necessary and I fully agree as to the utility of the Bill which has been introduced."

Thus on the 16th August, 1933, Maulvi Tamizuddin Khan was one of the staunchest supporters of the Bill. He admitted the utility of the Bill and was chary to support any proposal likely to jeopardise the chance of its being passed into law.

What happened between the 16th of August, 1933, and the 26th of October, 1933, we do not know. But we find the Maulvi Sahib characterising the Bill, which he had blessed in August, as "an ill-conceived, unjust and inequitable measure" or, as he has said just now, "it is a measure of robbing Peter to pay Paul, which does not deserve to be placed on the statute book."

He seems to have found out—rather unexpectedly—that "this legislation will give no relief to the tenantry as a whole. It will simply lighten the burden on the shoulders of certain classes of tenants, *viz.*, under-*raiyats* and cess tenure-holders." Admitting, for the sake of argument, that it is so, we have the statement of the hon'ble mover that "numerically the under-*raiyats* are about 6,000 more than the total number of occupancy-*raiyats*," as shown in the Jessore Settlement Report. So, according to the Maulvi Sahib's admission, the proposed change would benefit a very large number of *raiyats*.

He seems to have suddenly developed a solicitude for the cultivating *raiyats* and has said:—

"They are the pick of the tenantry of this province, and it would be highly regrettable if the already heavy burden on their shoulders is unduly increased."

As a matter of fact, the Bill aims at relieving any burden which may have been unduly placed on the shoulder of any particular class.

The statement made by him that the provisions of the Bill will adversely affect the vast majority of *raiyats*, or "the pick of the tenantry," as he would call them, cannot be proved by facts. On the other hand, it must be admitted that "if we want to relieve the poorer section of the cultivators and if we must proceed on the assumption that the total cess income will remain at a certain figure, whatever that figure may be and whatever the increase may be, then those cultivators who are better off or are escaping lightly under the present Act will have to bear a portion of their legitimate burden, so that those who are poor or bear a higher burden may be relieved of a portion of their somewhat inequitable burden."

How would the Maulvi Sahib do this? He admits that the existing arrangement is iniquitous and must be changed. His only objection to the Bill was that the basis of assessment (one-fifth of the total gross produce) seemed to him to be rather high. That is a matter of opinion and must be examined by the Council. But the Maulvi Sahib would be doing his own intelligence a great injustice if he finds in October that the Bill he had supported in August is "an ill-conceived, unjust and inequitable measure."

His apprehension that it will crush under its wheels the cultivating *raiyat* is absolutely unfounded, as explained in the speech of the hon'ble

mover. On the other hand, it only wants the burden to be equitably distributed—the poorer being called upon to bear a lighter burden than the more prosperous, i.e., those who make more profit.

The Maulvi Sahib's first impression was not only more reasonable but certainly correct. And he would do well to go back to it in the interest of the poor cultivators whose cause he wants to champion.

Rai Bahadur SATYENDRA KUMAR DAS: Sir, I beg leave to differ from the views expressed by Maulvi Sahib. I am no less interested for the tenants. Although I admit that the Bill, as it emerged from the Select Committee, is not still free from defects and there is ample scope for its improvement during the period of its consideration before the House, I see no reason why the principle of the Bill should be objected to and the Bill sent back to a Select Committee for reconsideration. I fail to understand why the House should not proceed with the consideration of the Bill which it had referred to a Select Committee for necessary additions and alterations.

I am aware that reference has been made to the relative proportion of the total cess borne by the landlord on the one side and the cultivator on the other. I am ready to concede that the framers of the Act of 1870 intended to divide it equally on the assumption that the rent payable by the cultivator was equal to the profit he derived from the land. This assumption must not be overlooked in discussing the conclusion based on it. If that assumption was incorrect, the conclusion must be faulty. Thus, under the existing Act when a cultivator pays Rs. 5 as rent, he has to pay 10 pice as cess and the amount payable on cess is equal to that payable as such by his landlord. But what about the arrangement when the rent is increased to, say, Rs. 8? In that case it is meet and proper that the landlord who enjoys an increased income should pay more, *i.e.*, 16 pice. But it stands to reason that this increase in rent results in a decrease of the cultivator's profit; in other words, the plenty out of which he used to pay becomes less and he should—instead of being made to pay 16 pice—be granted some relief. But under the existing Act the poor cultivator is not allowed the benefit of such relief. This is a hardship which the present Bill seems to remedy. It will increase the landlord's share in proportion to the increased income he derives and at the same time reduce the cultivator's share proportionately to the increased demand in rent he has to meet.

The Bill, therefore, instead of doing an injustice to the cultivator, removes an anomaly which has so long acted harshly on him.

Then there is the adjustment between cultivator and the cultivator. Here, too, as has been pointed out by the hon'ble mover, the Bill seeks to remove an inequity, against which so much had been said in the past.

Mr. W. H. THOMPSON: President, Sir, it would have been an useful suggestion if it had been made a little earlier that members should have been provided for this debate with a black board on which they could have illustrated their ideas. The lack of a black board may, I think, have put Mr. Tamizuddin Khan wrong.

Sir, I have no reason to butt in on this discussion. I know that Sir Provash has answers ready and complete for every point, which has been raised, but the word "surreptitious" has been used and it is almost like an insinuation against Sir Provash. If it is suggested that he is touched with the landlord's brush, that, Sir, cannot be said of me. I wish I were touched with the landlord's brush because I think the position of the landlords in Bengal is an extremely enviable one. If it is suggested that Sir Provash is being led by the nose by the permanent officials, I would have you observe that there is no ring fixed in my nose by which I can be led. Therefore, if I can put forward a point which will clear up the difficulties we have in meeting Mr. Tamizuddin Khan's argument, it may be useful that it shall come from me who are neither a landlord nor an official. No amount of jugglery—another word used by Mr. Tamizuddin Khan—can get round the fact that both under the old and under the new Act the landlord will pay from his own pocket half an anna out of his profit. Once omissions have been eliminated from the cess roll, and that is done by the first revaluation made on the basis of the record-of-rights—once omissions have been cut out, when another revaluation comes increase of cess will come from the landlords for the increase in their profits. Their profit may go up and on that increased profit they would pay an extra half anna cess under the new as well as under the old Act. The balance of all increased cess which will come under the new Act or under the old Act must come from the pocket of the *raiyat*—whether it is according to the acreage rate or according to the rent it makes no difference. The cess paid by the landlord, whether the revaluation be under the new Act or the old Act, will be exactly the same. Such further increases as will come under the new Act as under the old Act, will come from the tenants. The introduction of the new Act makes no difference there. It is not there that this Bill affects the tenant. This Bill affects the tenant in quite another way. May I take you for a moment into a typical Bengal village? Almost the whole of it is a wide field and the land is of much the same value. But although the lands are of equal value, the rents differ very considerably, and the differences have arisen at different points of view and for a great variety of reasons. Years ago there were two brothers who divided their father's holding. One brother got his portion, sold up and his holding was purchased by the landlord who resettled it with him or with somebody else at twice the original rent. Many inequalities arose in such a way. The rents, Sir, were settled in the village—it may be 50 years ago or it may be less—in the following manner: The landlord

sent his *amin* to measure up the land in the village and make a *chitta* survey. There was in the village at that time a big *raiyat*, one Rustum—a big strong fellow and the most influential person in the village—who put up the *amin* in his *bari*. When the *amin* went there he knew that if he could get round Rustum half his troubles in the village would be over. So he gladly accepted Rustum's invitation. Rustum made him comfortable and naturally procured from him a *quid pro quo*. Rustum's rent was fixed at a figure which worked out at a much lower rate per acre than the average rate of the village. The Tenancy Act has made no effort, has given no one an opportunity to set right inequalities like that. During the discussions over the Act of 1885 a phrase was used, a phrase which has stuck. Such inequalities of rent were put down to the "haggling of the ages," and no attempt was made either then or at any time when the Act came up for amendment to provide a machinery for adjusting such inequalities. Rents were based on contract between man and man. It is not the business of the Legislature to interfere in such matters. But cess is on an altogether different footing. Cess is taxation and it is very definitely the business of the Legislature to see that taxation is fairly distributed. That is the main object of the Bill before the House and with such an object in view the European group wholeheartedly supports Sir Provash's Bill.

Babu KHETTER MOHAN RAY: Sir, I oppose the motion for the Bill being recommitted. The Bill has been before the Council for more than 5 months and the Select Committee had sufficient time to scrutinizingly examine the Bill, clause by clause, and submitted a report with a recommendation that the Bill, as amended by it, might be considered in the Council. The amendment moved by my hon'ble friend seeks to refer the entire Bill to the Select Committee without limitation and without any definite instructions as to the line on which the Select Committee should proceed with the reconsideration of the Bill. It will be waste of time and energy to refer it back to the Select Committee. For in all probability the Bill will come back from the Select Committee with little or no modification. No doubt, fears are entertained by many people, who have had occasion to examine the provisions of the Bill, that it will increase the burden of assessment on the *raiyats* and the liability of the landlords to pay cess will necessarily be increased. For, the whole thing is going to be left to the discretion of the Collector. It is the Collector who will divide the district into units for the purpose of making acreage rate of the district, ascertain the value of gross produce per acre of ordinary agricultural land and ultimately determine the acreage rate which will be the basis of assessment. Though there are directions to the Collector to take certain matters into consideration in arriving at the acreage rate, but these are in the nature of recommendations rather than restrictions on his discretionary powers. The Bill has not provided

sufficient safeguards against the arbitrary and unjust exercise of the powers resulting in the hardships on the agriculturists. The Select Committee have not made amendment providing any checks upon the powers of the Collector except that provided in section 107D (*I*) (*b*). I doubt very much this will be effective in individual cases of assessments. Section 107D (*I*) (*b*) provides that the acreage rate shall not exceed a rate likely to increase the total cess demand in the district by more than twenty *per centum*. In a district there will be different rates in various units into which the district will be divided. In order to bring down the total assessment below twenty *per centum* of the increased cess, the Collector may decrease the rate in particular units while retaining the rate which he arrived at previously in rspect of others, for there is no provision in the Bill directing the Collector to act in a way so that all units in the district may equitably enjoy the benefit of the section 107D (*I*) (*b*).

Now the question is whether anything will be gained by sending the Bill back to the Select Committee. We know the minds of the majority of the members of the Select Committee and cannot expect that any material alterations will be made by them. At this stage of the Bill, our whole attention should be concentrated on moving those amendments which have the effect of removing the objectionable features of the Bill and providing safeguards against any arbitrary or unjust exercise of powers which are proposed to be vested in the Collector.

My hon'ble friend Maulvi Tamizuddin Khan made certain observations in his speech as well as in the minute of dissent about the landlords. He said that the burden of increased assessment will wholly fall on the cultivator and the landlords, thereby meaning *zemindars* and tenure-holders would go scotfree. Maulvi Sahib has not considered the effect of increment of cesses on the landlords when he made the observations. For the responsibility of collecting cesses from the tenants and paying the same to the Collector lies on the *zemindars*. Whether the *zemindars* are able to collect cesses from the tenants or not, they must pay cesses regularly, otherwise their estates and properties will be put up for sale for recovery of the arrears. Even in normal times a certain portion of cesses is not recoverable from the tenants for various causes and the *zemindars* have to make good the same from their pockets. The principle of assessment is admitted on all hands to be the profits from lands and my friend Maulvi Tamizuddin Khan has welcomed this principle in his speech in the Council at the time of the introduction of the Bill.

(The hon'ble member had not finished when the Council was adjourned for 15 minutes for prayer.)

(After adjournment.)

Under the present Bill landlords' portion of the cesses will be increased if their income from the land is found to have increased and their *khas* lands will not escape being assessed under the principle which is going to be introduced by the Bill. It is, therefore, not correct to say that the landlords will be allowed to go scotfree. My friend has issued a warning to the *zemindars*. But the *zemindars* have not asked for this Bill. The Government, after holding conferences to which my friend was a party, have introduced this Bill in the Council. It is the interest of the landlords to see that burden of assessment may not be increased on the cultivators. I cannot understand the present attitude of my hon'ble friend. At the time of the introduction of the Bill, he welcomed the measure which is calculated to remove the anomalies of the present Act and congratulated the Hon'ble Member in charge of the Bill for bringing up the measure to remove the inequalities of assessment. He openly declared that the system of assessment proposed would be more equitable than the existing system. He complained against fixing the basis of assessment at one-fifth of gross produce, which he considered to be too high. When once the principle of assessment has been settled, it would be the endeavour of every member here to provide safeguards against overassessment.

With these remarks I oppose the amendment moved by my hon'ble friend.

Maulvi SYED MAJID BAKSH: Mr. President, Sir, as I have always done, I find the prospect no whit gloomy of walking into the other lobby than that of my friend Maulvi Tamizuddin Khan. I have heard his argument, but I have not been able to follow it. I think it will be correct to say that the argument is based on a certain assumption which does not exist all over Bengal; it might exist in some places and in those places where it exists his argument might be applicable, but in those places where it does not exist his arguments entirely fall to the ground. My friend has based his argument on the usual stunt that he is fighting for the tenants against the landlords. I cannot find any such standpoint in his argument. I am submitting the case in a way which will make it perfectly clear that the tenants all over Bengal will not suffer, and I might put an end to his argument by saying that only where the land is held by the tenant or *raiyat* at a very, very low rate of rent there he will suffer, but where the land is held at a moderately fair rate of rent I do not think the tenant will suffer. On the contrary, the danger to the *raiyat* which lurks his footsteps everywhere under the present Act will be entirely removed. Sir, as at present known to every *raiyat* who pays rent, the interpretation of a certain footnote under a certain clause makes a cultivating *raiyat* who has the misfortune to sublet a small portion of his holdings to be counted as a tenure-holder, and on that basis under the old Act about which my friend is so full of praise, the assessment is being made

on the basis of a tenure-holder, and the cess goes up to somewhere near 10 pice to 3 annas in the rupee. The prospect that seems to be very fair to the tenant under the old Act, namely, that he has to pay one half anna in the rupee on the annual valuation of the land does not always hold good, because of the treacherous ways by which the annual valuation of the land may be fixed at anything which will be a multiple of the annual rent. I, therefore, Sir, want to make it clear that if the assessment under the present Act is made on a fixed basis which may be a little modified basis, the objection of my friend will entirely go. We will take the example which my friend has cited and I shall show to you, Sir, that the assumption which he has made is not a correct one. I come to his note of dissent at page 4. He has cited the example of a *zemindar* paying a revenue of Rs. 3 who has to pay 4½ annas as his share of the cess. Now this will be Rs. 3 per acre, and I can tell my friend that in our part of the district the acreage rate is more than Rs. 6; so that his assumption will only hold good where the acreage rate is Rs. 3 and his argument will not at all hold good where the acreage rate is more than Rs. 3. There is a fallacy lurking here and I will illustrate my point by an example. As some of my friends have said, if there had been a black board here it would have been quite possible to make the position clear by illustrating my point on it. For example, I shall take the basis which exists in my part of the district which is Rs. 2 per *bigha* or Rs. 6 per acre. Now, nobody knows what the proposed valuation will be. In the first place, it will all depend on the prices of the produce prevalent at the particular time when the assessment is made. Now, for the sake of argument I shall assume that the value of the produce per acre will be Rs. 54 which will mean Rs. 18 per *bigha*, and if the rate of annual valuation proposed in this Act, namely, one-sixth, is adopted, it will be Rs. 3 per *bigha*. The Act proposes that from that valuation the annual rent is to be deducted and upon the remaining amount that is left two pice per rupee will be levied. As I have already told you, the rate of rent in my part of the district is Rs. 2 per *bigha*, which means the assessable rate will be 2 pice per rupee. It does not harm the tenant. He is now paying 4 pice. If the *bigha* rate is two rupees he has to pay 4 pice now. But under the proposed amendment the cess is to be reduced by half. (A VOICE: "You are building castles in the air.") I am not. We pay a very high rate, three rupees per *bigha*, and I can make my friends understand it if I have a black board. There is another improvement which I think will be very valuable for the tenant. I pay two rupees per *bigha* as a tenant myself, and I can produce rent receipt if my friends would like it. In clause 14, after the proposed section 107M, there is a proviso to sub-section (2) which lays down "provided that where the rent payable is equal to or greater than the annual value, no cess shall be payable by him." Does that hold good now, I ask my hon'ble friend? If the

annual valuation is equal to rent, has he got to pay cess or not? At present he has got to pay cess even if the annual valuation is equal to the rent. But under the new Act he will be exempted from paying cess; is that an improvement or not? Under it certain class of tenants will get the benefit. Under the present Act not a single person is benefited. There is, however, one lurking danger for my friends coming from Mymensingh or Faridpur, as the case may be, and it is this: Where the *bigha* rate is very low, for example if it is 8 annas, he has got to pay at present cess equal to 1 pice. But under the present Bill he will have to pay 5 pice. In places where the *bigha* rate is low, the tenant is hard hit. Against that there may be one consideration, namely, if you enjoy a very low *bigha* rate, why not pay 4 pice more—is that inequitable? Even if you object to that, I would refer you to amendment No. 115 standing in my name where I have suggested that after the proposed section 107D (2) (*b*) the following be inserted namely:—

"(*c*) a rate which when multiplied by the area will increase the annual value of the land to more than double the amount of rent payable for the land."

If the hon'ble member who is sponsoring the Bill accepts the amendment (No. 115), then every difficulty will be obviated. If you do this, whatever the rate that is applied for determining the value of the land, no rate will be levied which, when multiplied by area, will increase the annual value to more than double, that is, up to double we can go, if you work out in this way. Suppose you lay down a rate which makes the annual value double the rent, that is, if Rs. 2 rent is payable, the annual value will be Rs. 4 and there will be no assessment which will increase the annual value to more than Rs. 4. And I think that will obviate all the difficulties under which my friends are labouring. You say that will diminish the income of the district boards by half. You cannot burn your candle and yet have it; you cannot eat your cake and yet have it. I am thinking of tenants and tenants only, while you are thinking of the district boards. If you want to increase the income of district boards, what is your idea? If you want to increase the rate, come forward and say plainly that in order to increase the income of the district boards, you want to increase the cess payable by the tenants; I can understand that. But do not say that you are going to lessen the rent of the tenant as well as increase the income of the district board—that is a paradox which with the greatest amount of mathematical calculation it is difficult to solve. The district board rate will not be less, because at present the income of the district board is dependant on very uncertain figures. Under the proposed Act the district board will be relieved of that difficulty. It will know its figures and income beforehand. It might levy cess up to the amount which is proposed by the Act, and I think the income of the district board will not be much less. Now what is meant by

district board income? It is only a paper income; the paper income of our district board is about Rs. 7 lakhs, but we do not get more than a lakh or near about, and why? Because the tenants cannot pay. You have levied cess from 10 pice to 3 annas per rupee according to that great footnote and that swells up your figure to somewhere near 5 lakhs, but owing to depression the tenants cannot pay; if you attach their land, etc., and sell them, it will fetch a very low price; you do not even realise one-twentieth of the demand. Thus, you cannot get the amount payable as cess. You will only have paper income. (At this stage the hon'ble member reached the time-limit.) I have said all that I had to say. If this amendment is accepted, I think it will meet the case.

MUNINDRA DEB RAI MAHASAI: Mr. President, Sir, the Select Committee, I am sorry to note, has shown scanty courtesy to the suggestions made by various public bodies. Some of the suggestions, if accepted, would have removed some of the longstanding grievances of those for whose interests the amending Bill has been introduced. Of the suggestions so far offered the most important is that of absolving the *zemindars* from the liability of realising road and public works cess from the tenants. The quota of cess payable by the *zemindars* themselves are comparatively much smaller than that payable by the tenants and the former is made to pay with costs and interest not only their portion of the cesses but also the portion of cesses payable by the tenants. It has become impossible for the *zemindars* to realise rents sufficient to meet Government revenue which is the first charge on the estate, not to speak of cesses the realisation of which has become well nigh impossible.

This liability to pay the entire cess has made the life of *zemindars* more miserable than ever. The number of estates sold for non-realisation of cesses is legion. To add to their misery their estates are not only sold but they are subjected to abject humiliation by the simultaneous issue of distress warrants along with warrants of arrest. Most of the *zemindars* are at the end of their resources and to subject them to such indignity for no fault of their own is most inhuman. I have heard of instances of atrocities perpetrated on some helpless *zemindars* by the myrimdons of the Nazarat Department which makes one wonder whether they are living under a civilised Government or in a barbaric age. Government has got its handy certificate procedure for the realisation of their dues, but the unfortunate *zemindars* have to seek relief under the long drawn processes of the Civil Court. In the present Bill no easy method has been devised for prompt realisation of cesses by the *zemindars* from their tenants. A thorough overhauling of the Cess Act is the crying need of the hour. A change in the system of taxation may be of benefit to some, but it would be of doubtful utility to a majority of them who will be under the proposed system overburdened

with additional liability, leaving little chance to rekindle the dying embers. The majority of the *zemindars* of Bengal are in their last gasp. Pray do not prolong their agony or help in their total extinction. Equity demands fair treatment and to do so due consideration should be paid to the suggestions offered by those interested in this matter of vital importance. Whatever be the basis of taxation, and whatever be the amount, the *zemindars* will have to pay the whole amount out of their own pockets and there was no knowing when they will be able to recover cesses due from the tenants. Moreover, the new system will lead to constant and innumerable litigation. I, therefore, think that it would be better if the Bill be dropped for the present as the time is most inopportune for the purpose.

Mr. SARAT KUMAR ROY: I rise to oppose this motion. The Committee to which the Bill was referred to was composed of all diverse interests in the country. The Legislature had, therefore, got full opportunity of consulting their views. I do not think that any particular section of the House, interested in the Bill, remained unrepresented.

Now, Sir, looking at the result of the deliberations the Committee had on the Bill, I find that at least some of the suggestions of the tenants' party have been accepted by the Committee, as for example, allowing tenure-holders and the *raiyats* the benefit of the provision for rebate.

The Committee has also accepted the suggestion for reducing the share of the gross produce for determination of the acreage rate, a change whereby the tenants will be benefited, and so on.

Hence, it cannot be said that the tenants' view was ignored.

But on the other hand, practically none of the suggestions from the *zemindars'* side were accepted by the Committee to any useful extent.

If any party has reason to ask for a revision, it is the *zemindars'* party. But if the latter can venture to have their grievances removed in the full House, I think the tenants' party ought also to follow the same course.

Under such circumstances, I submit that a recommittance is wholly unjustifiable and unnecessary.

I don't think, Sir, I need reply to Maulvi Tamizuddin's attacks upon the *zemindars*, as already Mr. Thompson, Babu Satya Kinkar Sahana and Babu Khetter Mohan Ray have said enough against them for the present purpose. I am afraid Maulvi Tamizuddin has not thoroughly studied the land system of Bengal. For if he had done

so he would not have ignored the history of the land laws of Bengal and based his arguments upon vague and erroneous impressions; so we need not take him seriously.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Sir, it is painful for me to have to disagree with my friend Maulvi Tamizuddin Khan, whose honesty of conviction and sincerity of purpose cannot be questioned. I have considered the provisions of the Bill on their merits, and have, after a discussion with Maulvi Tamizuddin Khan on his note of dissent, spent considerable anxious hours in trying to understand his viewpoint and to solve his difficulty. After full consideration, I have come to the conclusion that the Bill which is now before the House not only tries to remove all the anomalies which exist at the present moment in the present Act, but is equitable, just and fair to all parties concerned. It will be difficult, Sir, perhaps, to explain the effects of the proposed Bill by speaking on them without clearing up points with the aid of figures. I, therefore, request the members, through you, Sir, to consider the hypothetical cases which I will cite in order to be able to explain the implications of this Bill. But before doing this, I would like to take the House back to the discussions which took place in the Legislative Council in 1872, when the present Act was introduced. Sir, from the remarks of the Hon'ble Member of the Board of Revenue who introduced the Bill, you will find that they started from the very beginning on wrong assumptions. First, they divided the assessees into three classes. One was the proprietor who paid revenue to Government, the other was the tenant—I should say the so-called tenant—who intervened between the tenant and the landlord, and the third was the cultivating *raiyat*. It must be borne in mind that the cultivating *raiyat* who is referred to in the speech at the time of the introduction of the Bill in 1872, is not the *dejure raiyat* according to the Tenancy Act, but the person who actually cultivates the land, and similarly, the rent receivers have by the scheme of the present Act been all mixed up into one class. As far as assessment is concerned, they do not only include small and big landlords who pay Government revenue, but also various classes of small and big landlords and small and big tenure-holders. All these grades of people have been lumped together in the scheme of the present Act as rent-receivers, and the actual person who cultivates the land, is a cultivating tenant. I will refer to this point, Sir, later on. I have just mentioned it as an introduction to what is to follow.

Then, Sir, in apportioning the taxes between the various classes, the rent-receivers were assessed to half, and the actual cultivators were assessed to half. Here, again, it should be remembered that the landlord whose assessment remains stationary and will not be enhanced by the present Bill, was not the only person who paid the other half of

the assessment paid by the rent-receivers of all grades. If you take into consideration the cess that is being paid by the rent-receivers of all grades, you will find that the cess being paid by them is more than what the actual cultivating *raiyat* pays, and I believe in future they will also pay more than what the cultivating *raiyat* will pay. I shall demonstrate that point later.

Then, again, Sir, another wrong assumption by the framers of the Act was in assuming that the profit of the *raiyat* was equivalent to the rent he paid. That assumption was based on the idea that one-third of the gross produce represents labour, one-third his profit, and one-third his rent. Therefore, the profit is equal to his rent, which, as everyone of us knows, is entirely fallacious. The rent which prevails at the present moment in Bengal is not an economic rent. That rent has been assessed at various times, on various principles and for various reasons. This assumption of the framers of the Act that rent represents property has led not only to serious anomalies but great unfairness which the present Bill intends to rectify. I would give you an example of how iniquitous it becomes when we calculate the cess on the basis of rent alone. Let us take the hypothetical case on which Maulvi Tamizuddin Khan bases his objection, namely, an estate of 4 acres of which the revenue is Rs. 3 and the rent Rs. 12. Taking that basis, the cultivating *raiyat* pays 24 pice cess, that is 2 pice per rupee, but the same tenant, if the rent is increased by the landlord to Rs. 16, will have to pay 32 pice in all. As the rent goes up, his profit decreases but his cess increases. That is a proposition which nobody in this House can support. Supposing that the same class of tenants pays Rs. 24, he will have to pay 48 pice, although his profit will be very small indeed. Therefore, Sir, as the system at present stands, it is not only anomalous, but it operates very harshly on the poorer classes of tenants whose rents are high and profits small. We may go further and suppose that we have got three *raiyats* possessing 4 acres of land, each paying Rs. 12 as rent. One *raiyat* has got the entire land in his *khas* possession, the second lets out his 2 acres to a *korfadar* at a rent of Rs. 10; the third *raiyat* holds 2 acres in his *khas* possession and sublets 2 acres to a *korfadar* who again sublets one acre to a *darkorfadar* at Rs. 10. What will be the result? No. 1 *raiyat* whose land is in *khas* possession, pays 24 pice as cess; his brother-tenant who has sublet his land, pays 36 pice if his *khas* land is assessed at the acreage rate of 9 pice per acre; though as a rule in most cess revaluation proceedings the *khas* lands are assessed at arbitrary rates. If a tenant sublets to a *korfadar*, his cess will be 36 pice on the full amount, and it will go up to 44 pice simply because the *korfadar* has sublet his portion of the land. As far as the landlords are concerned, they will pay in the case where the rent is Rs. 12, 18 pice, and where the rent is Rs. 16, 26 pice, so on at the increased rate because his rent will also increase along with the rent of the *raiyat*. That, I hope, is clear.

I will now try to illustrate the effect which the new proposal contained in the present Bill will have on the same *raiyats* according to my illustration. In the case of the *raiyats* who pay Rs. 12 as rent, assuming that the acreage rate will be Rs. 9 per acre (and this Rs. 9 I have taken also from Maulvi Tamizuddin Khan's illustration—he has assumed in his note of dissent that Rs. 45, being the value of the gross produce, one-fifth of that produce will be Rs. 9) that Rs. 9 may be considered as an acreage rate. Multiplying that Rs. 9 with the acreage, we get the valuation of the tenant's holding. Of the man who pays Rs. 12 as rent the value of his land will be Rs. 36 and on that he will pay 48 pice which is much more than a landlord will pay, *i.e.*, 18 pice. But as the rent goes on increasing, his cess goes on decreasing; for instance, if his rent is raised to Rs. 16, his cess will come down to 40 pice; if his rent is Rs. 20, the cess will come down to 34 pice, and if his rent is Rs. 24, his cess will come down to 24 pice, and in proportion the landlord's cess will go up. Why it will be so I will explain now, because the landlord in every case is assessed on his profits and if his profit is more or the rent which he receives is more he has to pay more cess, while in the case of a tenant if his profit is less as the rent he pays is more the burden of assessment on the tenant will decrease. This is perfectly fair and equitable. Similarly, on the illustration which I gave about the subletting by *raiyats*, there also under the present system——

(Here the member reached his time limit, but the member was allowed to proceed, as the member said that this was a subject in which he required some indulgence as he wanted to help both the President and the members to understand the subject.)

In the case of subletting also, I have demonstrated that the present Act operates very harshly on the raiyats who happen to sublet their holdings which they got from their forefathers. Under the Bill subletting has no effect on the *raiyat's* assessment because he pays on his profit, that is the acreage rate of his area minus the rent he pays irrespective of the fact that he has an under-*raiyat* or that he has sublet or anybody else has sublet.

I have gone to some length to show that the present Act is unfair and unjust and, secondly, that in itself apart from the other question which Maulvi Tamizuddin has raised about the proportion of the cess between the landlords as a whole and the tenants as a whole, to which I will refer later; it is perfectly equitable and perfectly fair because the burden is increased or decreased according as the profit is increased or decreased. According to the Bill, the cess will depend on the acreage rate. But how will you fix the acreage rate? If the acreage rate, as has been said by Maulvi Majid Baksh, is double the rent which the tenant pays, his assessment will not be increased from the present assessment. If it is less, the cess will be decreased and if the acreage

rate is more his assessment will be greater. It is true that the landlord's share in the assessment according to the acreage rate will always be constant, and that is also fair because after all the acreage rate does not affect the landlord's profit at all. The acreage rate affects the tenant's profit. The landlord's profit being constant as the rent which he receives, is constant.

Now I will come to the last point and which is perhaps one of the most important points in Maulvi Tamizuddin's objection, and that is that under the new Act the burden of the landlord will remain constant. But according as the acreage is high or low the burden on the tenant as a body will increase. Perhaps that is correct. But it would not increase to the extent that he thinks. But it must be borne in mind as I have said, before that a landlord does not actually mean the man who pays the Government revenue but a landlord includes all the big landlords, small landlords, a tenure-holder and the whole class of tenants who are rent-receivers. Therefore, as a net result of the new assessment I do not think that the inequality between the assessment on the landlord and the tenant will be very considerable. Even if there be any difference my point is that it will not be inequitable by any means because if we assume that the assessment of a tax should be on a man's profit, accepting that principle I do not understand even if a *raiyat*, and by "*raiyat*" I do not mean the actually poor cultivator but a *raiyat* on *mokarari* lease or a *raiyat* on quit rent, makes a larger profit than he does now why he should not pay a fair and equitable cess on his profit.

He has referred to one or two points about which we are on common ground, *e.g.*, the question of rebate on which he wants to throw out the Bill or refer it to a Select Committee. The Bill was considered very carefully by the Select Committee and everybody else who has tried to understand the Bill. I do not think there will be any good in sending the Bill back to the Select Committee again. It does not matter who may be added to membership of that Committee. I, therefore, with very great regret oppose Maulvi Tamizuddin Khan's motion.

Raja Bahadur BHUPENDRA NARAYAN SINHA, of Nashipur: Sir, I have listened with great interest and attention to the speech delivered by my friend Maulvi Tamizuddin Khan. I am sorry he has not been able to convince by his arguments (I think they are fallacious) even a single member of this House. The very fact that he has not a single supporter of his motion shows that he has completely failed to convince the House. The leader of the European group Mr. Thompson, the leader of the Praja Party, Khan Bahadur Abdul Momin, and even those who are called pro-tenants have not been able to grasp his arguments; on the other hand, all of them practically oppose him in this motion. He has attacked the Government and also the landlords. Firstly, while

attacking the Government he said in the strongest terms how unjust assessment has been carried on against the cess tenure-holders. Being a lawyer, he knows fully well that Government should not be blamed for this. As the law stands at present, one has to assess according to law but for the defect in the law an occupancy holding under the Bengal Tenancy Act and under the Cess Act is treated differently. According to the Tenancy Act, one taking land for the purpose of cultivation is treated as an occupancy-holder. He may not cultivate even a *chattack* of land himself; yet he is treated as an occupancy-holder under the Bengal Tenancy Act; but if the same man leases out his holding to another, he is treated as a tenure-holder under the Cess Act. For this difference there had been complaints not only in this House but also on the platform and in the press and the Hon'ble Member has taken a great deal of trouble to remedy the evil. The result is that this Bill has been introduced. I would show you how cess is at present assessed by a concrete case. For example, a man holds 3 acres of land and pays Rs. 6 as rent. Of these 3 acres 1 acre has been sublet to a certain person on Rs. 4. A moderate valuation officer would assume that the valuation of the other 2 acres would be Rs. 8 and the value of the entire holding would be Rs. 12, but a young and ambitious valuation officer would determine the value of 1 acre at Rs. 4 and the remaining 2 acres he would treat as *khas* land and value at Rs. 30. So, instead of assessing the annual value for Rs. 6 on rental basis, it would be fixed for Rs. 30. There is this anomaly causing great hardship to tenants. There has thus been a discrepancy between occupancy-holder under the Bengal Tenancy Act and the cess tenure. Then, again, my friend himself admits that to do justice to cess tenure, this Cess Bill has been introduced and the Bill will give great relief to them. But though admitting this he says that this relief will be given at the expense of the occupancy-holder! Here he has made a fallacious argument. First of all he assumes that the total revenue from the permanently-settled estates is 2 crores 15 lakhs and the profit is 8 crores 50 lakhs. He has altogether forgotten the fact that this 8½ crores of profit is divided not only among *zemindars*, landlords and tenure-holders, but among all grades of persons. If he will take into account the profit in individual cases of *zemindars*, tenure-holders, occupancy-holders and the cess tenure he will find that the profit is Re. 1 or Re. 1-8 per acre. This is one of his fallacious arguments. To make my point clear, I will quote the figure from the Report of the Land Revenue Administration (1931-32). The total number of revenue-paying estates is 106,500, the total number of revenue-free estates is 31,000, the total number of rent-free lands is 21,900 and the total number of tenure is 5,701,400. Thus the total number of land-holding units in Bengal is 5,860,000. The 8½ crores of profit is thus divided amongst these people. It is known to the House that there are co-sharers to each unit. In Muhammadan units there are larger

number of units than in Hindu units. On a moderate figure we might take that every unit carries at least 3 co-sharers. Therefore, the average income of each person would be Rs. 2. Thus, it is erroneous to think that a *zemindar* of 4 acres of land paying a revenue of Rs. 3 will get Rs. 12 as rent from his *raiyat*. It cannot be more than Rs. 4, and here my friend has made a great mistake in assessing the figure.

Secondly, he has said that the occupancy-holder will be taxed at the cost of the tenure-holder. To a certain extent there will be an increase of cess of the occupancy-holder, but that will not be increased unjustly. At the present moment the basic rent is customary rent and this is levied not according to the economic condition of the place, nor is it a competitive rent. It practically depends on the sweet will of a particular *zemindar*. There are cases where *zemindars* show favour to *raiyats* by diminishing the rate of rent and thereby automatically their cess is reduced to a great extent. These fortunate *raiyats* do not pay the cess, they should have to pay, and they have so long avoided to pay right and just cess. So no injustice will be done if the cess be increased according to their profit. In such cases there may be increment of cess, but none should clamour, for this would be done rightly and justly. Similarly, there are cases where the rent has not been increased for a certain period, while there are cases where the rent has been periodically increased. An energetic *zemindar* may increase the rent periodically, while a neighbouring *zemindar* may not increase it. So, the rent cannot be taken as the standard. On the other hand, under the present law, if the rent be taken as the standard, that means the more the rent, the more will be the cess and the less the profit. That is most dangerous. And, moreover, the more the subinfeudation the more will be the cess though the profit goes down and down. The principle of the cess law, both under the present and the old Act, is that the cess shall be calculated on the profit of each person and if my friend keeps that principle in mind he will not be misguided.

Maulvi Tamizuddin Khan has attacked the *zemindars* by saying that the *zemindars* are trying to make another permanent settlement by increasing the cess of the cultivating land. He altogether forgets that the more the cess the more will be the burden on the *zemindars*. There is no man so foolish as to be anxious to increase the rent of his tenants only for pleasure's sake at the cost of enormous responsibilities and loss in the payment of cess in advance. The idea which he has in mind, so far as I have been able to understand, is that the cess should be calculated on the rent of the land and not on the profit; but, as I have already said that it is a fallacious theory. If that is acted upon, the income of the district boards will go down and down to a great extent, and that certainly is not desirable. The income of the district board is spent on the improvement of the rural areas, and it should be the

endeavour of every one of us that the district boards' condition remain unchanged. For fairness and justice even at the risk and cost of our loss we cannot allow to do so.

Another fallacy in my friend's argument is that the *raiyats* who cultivate themselves would be taxed if this Bill be passed. But as Maulvi Syed Majid Baksh has already pointed out these classes of people will not be taxed. If the assessment is based on the acreage rate, then they will be exempted—will not be taxed at all. I must point out that Maulvi Tamizuddin Khan is labouring under a misconception and miscalculation from the very beginning.

Sir, with regard to his motion that the Bill be recommitted, I submit that the Bill has been considered not only by the Select Committee, but by persons representing different views in the informal conference called by the Hon'ble Member, and we all practically came to a unanimous decision in the matter.

As for rebate, we shall have a separate rebate. So, I do not like to touch it now.

With these words, I very strongly oppose the motion.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I will not take much of your valued time because the subject has been discussed threadbare from different points of view by all sections of the House, and especially by my friend Mr. Momin, as regards the pros and cons of the Bill. I think that there is a certain amount of misunderstanding in certain quarters regarding the scope of the Bill. I will illustrate some of these points. One of the cardinal features of the Bill is that the sum total of the landlords' burden will not be increased and the sum total of the tenants' burden will also not be increased. It is possible, under the scheme devised in the present Bill, to keep the income of the district board exactly on the same footing as at present; in other words, the danger provision is not in the place where Maulvi Tamizuddin Khan has pointed out, but the danger provision of this Act lies in the acreage rate. If the acreage rate is increased by the operation of this Bill, then I certainly consider that this Bill will create hardship on the whole tenantry, but if it is so arranged that it will be to the advantage of the tenant and that at the same time the income of the district boards is not enhanced, then it will be possible to confer greater benefit on the tenants. The history of the Cess Act is perfectly well known to many of the members, but probably the House is not aware of the operation of the Cess Act. I might cite the case of the Khulna District Board. There the cess has increased from 2 lakhs to 7 or 8 lakhs. As the Act at present stands, nobody can say whether it will come to 8 or 9 lakhs or even more. But under the present Act it will be possible to adjust the machinery in such a way that the increase will be only, say, 10 or 20 *per cent*. That is the basic factor

of the cess incidence under this Act. This cess incidance will depend only on two factors—the total amount of rent and the acreage rate. You can calculate to the very pie if these two factors are known. The real danger zone, therefore, will appear if it goes to increase enormously the acreage rate. The Select Committee has put in a provision that there should not be an increase of more than 20 *per cent.* in the income of the district boards. Whether it should be more or less I do not want to discuss now. I say that the present machinery should be so adjusted as to make the income of the district boards as far as possible stationary. Now, Sir, I have myself calculated and find that in Faridpur, from which my friend comes, if the acreage rate is put at Rs. 5-14, in other words if the board's income is placed at Rs. 35 or Rs. 36—and I am sure that Faridpur has got a gross acreage rate of little more than that—then it will be possible to keep the present cess intact so far as that district is concerned. Now the danger will lie if in my friend's district he settles the gross income at Rs. 60 and fixes Rs. 10 as the acreage rate. In that case the cess will be enormously increased; but the Select Committee has fixed a margin beyond which you cannot go. So far as the sum total of the tenants' burden is concerned, it may be equitably distributed as between tenants and landlords.

There is one feature in the Bill to which I would draw your attention and that is forgotten by many. Under the present Cess Act the cess incidence is 6 pies for public works and 6 pies for roads, but under the present scheme it will be only one-fourth of an anna. Maulvi Syed Majid Baksh has shown in detail that the total burden of the tenants will not be increased.

There is another feature and that is this—the man who pays more rent will have to pay less cess and the man who pays less rent will have to pay more cess. Under the existing system it is just the opposite. Now, Sir, I ask is this fair? A man who pays Rs. 10 as rent will pay annas 2 and a man who pays Rs. 5 rent will pay anna 1! If the acreage rate is fixed at a particular limit, anybody who pays up to that will be exempt. That may be a source of little hardship to some, but in matters of this nature it is very dangerous and also impracticable if we are to look to the case of individuals and not to the sum total of the tenantry.

As regards the provision of rebate, I think this is the first time that such a provision has been introduced in the Cess Act for the purpose of collection of the cess, and I think this principle has been introduced on the basis of the Telephone Company's rebate. I believe the shrewd representative of the Telephone Company is responsible for this piece of provision but whatever may be the genesis of this, I believe that it is the most dangerous provision that we are going to have for many years. The collection is more than 95 per cent. and

that being so, the reason why this rebate should be given is not explained. But I believe that that cannot be done away with by recommitting the Bill. The real remedy is to throw out that section altogether. Therefore, I feel that so far as the present Bill is concerned, I am not enamoured of the introduction of this thing, and I also feel that it is a bit cumbersome so far as the acreage rate is concerned. I will take two minutes more and I will finish. There is another danger and that is regarding the limitation. For this danger further reference to the Select Committee would not be the proper method but to oppose those particular sections.

I feel that so far as the present Bill is concerned, whereas it has given a little relief by adding a few lakhs to the pockets of landlords in the shape of rebates, it has not done anything for the tenants, and to that extent certainly the tenants have got a grievance; but for the tenants I consider it is more equitable and fair as between a tenant and tenant.

The last thing which I want to say is this: At present nobody knows as to how the Cess Act operates. In the future if the acreage rate is known which will be widely published, every man will be able to find out what his cess demand will be. To that extent unfair and more cess will be avoided. I consider that certain sections should be deleted to relieve the tenants and not the Bill thrown out.

(The Council was then adjourned for 15 minutes for prayer.)

(After adjournment.)

The Hon'ble Sir PROVASH CHUNDER MITTER: Sir, the points have been discussed so fully and my friend Maulvi Tamizuddin Khan has got such scanty support that it would have been hardly necessary for me to speak on this motion, but for the importance of the subject. I do not, however, propose to speak at length; but as this is a Bill which affects every one in the rural areas, as this is a Bill which affects 46 millions of the population, I shall very shortly dwell on the points mentioned by Maulvi Tamizuddin Khan. His main points against the Bill are, that it is inequitable, anti-tenant, the provision for rebate is unjust, it is unworkable, and is highly inopportune. Well, his first point is that the system suggested is inequitable. Over and above what has been stated by other speakers before me, I will just point out that it is not inequitable and it cannot be inequitable between cultivator and cultivator. Nor is it inequitable because of alleged unfair distribution between landlord and agricultural tenant. Take any of the districts and it will be seen that the Bill does not touch the distribution of the burden between the landlord and the cultivator, but deals with distribution of burden between cultivator and cultivator and that, members will remember, is one of the main objects of the Bill. As has been explained by some of the previous

speakers, the distribution of the burden, between landlord and tenant, whatever it is under the existing Act, is not changed in any way in the amending Bill. As between a cultivator and a cultivator and landlord and cultivator what is the position under the present Act? From when did the increase come in past revaluations? Much of Maulvi Tamizuddin Khan's arguments are based on a mistaken notion of the position. I will take at random three or four districts, some in Eastern Bengal and some in West Bengal. Take Bankura which is the poorest district in West Bengal; there the total of cost rental of occupancy *raiyats* was Rs. 13,19,000 odd, and if to that were added the valuation of *khas* lands and lands held on rent in kind, calculated on the average rental, it would have yielded another 6 lakhs and odd. The total on that basis would have been about 22 lakhs, but the annual value on the basis of which assessment was made in that district was Rs. 40,72,000 and odd. In Jessore the sum total of the rent of *dejure raiyats* (occupancy *raiyats*) and estimates prepared on the average rate of rent for *khas* lands and rents in kind came up to Rs. 38,32,000, but the annual value on which assessment was made was Rs. 79,00,217. Maulvi Majid Baksh has lucidly explained the position of his own district, and Khan Bahadur Abdul Momin, who was the Settlement Officer of that district, knows all about it. In Khulna the sum total of the rent of *dejure raiyats* (occupancy *raiyats*) was Rs. 37,00,531 and by valuation of *khas* lands and lands held on rent in kind calculated on average rental, would have yielded about Rs. 7 to 8 lakhs more. The total would have been about Rs. 45 lakhs. But the annual value on which assessment was made was Rs 1,03,93,000 and odd. In Mymensingh on the basis of the existing rate the rent of *dejure raiyats* (occupancy *raiyats*) would have been Rs. 30,27,000 and the valuation of *khas* lands on the average rate of rent would have produced Rs. 3,31,000; the sum total would have been Rs. 33,58,000. But the annual value on the basis of which assessment was made in Mymensingh was Rs. 1,18,31,295. From whom was this wide gap between the sum total of the rentals of the *dejure raiyats* and the estimate on that basis on the average rentals of *khas* land and rents in kind was made up? Not from the landlords, because so far as the lanlords are concerned—I am referring to that as Maulvi Tamizuddin Khan has the landlord in his brain—the only increase that might have come would be from the *khas* lands of *raiyats*. Another increase that might have come from the landlords would be due to enhancements of rentals. About *khas* land we all know that the landlords have very little *khas* land, because agricultural land is so valuable and the density of population is so great that the landlord prefers to settle all cultivated and culturable land with the agriculturist at a rate favourable to himself. As regards the increase of rentals that would be a common factor between the old and the new Act: Therefore, the new Act cannot touch the comparative position of the landlords

and the agricultural tenants. If the bulk of the increase from 22 lakhs to 40 lakhs came from the agriculturists in Bankura, if the bulk of the increase from 38 lakhs to 79 lakhs came from the agriculturists in Jessore—there are at least two members who are familiar with this district—if the bulk of the increase from 45 lakhs to 103 lakhs came from the agriculturists in Khulna, if the bulk of the increase from 33 lakhs to 118 lakhs came from the agriculturists in Mymensingh, then is it not patent that the poorer agriculturists did contribute more than the less poor statutory *raiyats* to make up this difference? Is it not patent that the man who is a *korfadar* pays higher rate than the occupancy *raiyat* whose rate in Mymensingh, for instance, is Rs. 2-12 per acre: is it not patent that an occupancy *raiyat* who holds his land at rent in kind has to pay money value and therefore pays more: is it not patent that the man whose land is summarily valued under section 24 has to pay a higher assessment? The object of the Bill is to make a more equitable adjustment between agriculturists and agriculturists, and I claim that we have succeeded in achieving that object. I say this with greater confidence because Maulvi Tamizuddin Khan in his own speech at the time when the Bill was introduced not only praised the Bill after I had made my speech, but on these very points what he said was (page 352 of the Council Proceedings, Volume XLII, No. 1) that he agreed with me that the method sought to be introduced was more equitable than the present one. What has happened since then? I do not for a moment question the honesty of purpose of the mover of the amendment, Maulvi Tamizuddin Khan. He must have been led away by sentimental reasons and he was so led away because he did not examine facts. If he examines facts, I am sure he will be the first person to admit that he is in error.

Thus, Sir, I have disposed of both his first and second points, namely, inequality arising out of a comparison of the 1880 legislation and the proposed legislation.

As regards rebate, I suppose that we shall have a full dress debate on it, and I reserve my comments on it till that time.

As regards his complaint of the unworkable nature of the Bill, I have only one word to say. Maulvi Tamizuddin Khan has said that the Bill is unworkable because it is proposed to work on old record-of-rights. Assuming that a district record-of-rights is 15, 20 or 25 years old, will there be any difficulty? I say no. I might remind him that Mr. Thompson, who was himself a Settlement Officer and Khan Bahadur Abdul Momin who, too, was a Settlement Officer are of a different opinion and thus surely can be relied upon in these matters on account of their experience; but yet they have not supported Maulvi Tamizuddin Khan. On the other hand, both of them in the Cess Conference definitely stated that there would be no difficulty in working upon old record-of-rights. Are we to accept the *ipsi dixit* of Maulvi

Tamizuddin Khan, or are we to go by the advice of those who know their business and gave their opinions? Their advice is all the more valuable because they are now ex-officials. I say that the Bill is not unworkable, and Maulvi Tamizuddin has not given one single reason in support of his assertion—neither here nor in the Conference. His doubt centred on the point, one-fifth or one-sixth, both in the Conference in the previous debate in the Council. These are all new points that he is now trying to raise.

There is one other point. Maulvi Tamizuddin says that the introduction of this Bill is inopportune. Nobody questions that. But I submit that that assumption is based on a fallacy. Nobody questions that at the present moment there is acute economic depression in the country. But we are not legislating for this year, or the next year, or for that matter, for the next three years; we are legislating for all time. If the present economic depression continues, there will be very good reason for not assessing either under the old Act, or under the proposed measure, and that is what I, as Member in charge of the Revenue Department, have been doing for the last two years. When the economic depression started whatever assessments we had already taken up we had to complete, but we have not been taking any new assessments. Supposing this Bill is passed into law and the economic depression continues, I admit that it will be extremely unwise to take up any new assessment——

Khan Bahadur MUHAMMAD ABDUL MOMIN: If the economic depression continues, why not reassess?

The Hon'ble Sir PROVASH CHUNDER MITTER: If the economic depression continues for a long time, it may be necessary to reassess; it may even be necessary to reduce the cess demand and under such a contingency it may be necessary not only for the district boards to reduce their expenditure, for Government to do so, and ultimately all classes may have to readjust themselves to the altered conditions of continued depression. But I submit, Sir, that all these arguments are irrelevant to the issue which arises out of this Bill, and I submit with some degree of confidence that this motion ought to be rejected, and I hope that it will be rejected.

The motion of Maulvi Tamizuddin Khan was put and lost.

The original motion that the Bill be taken into consideration was put, and a division taken with the following result:—

AYES.

Ahmed, Nawabzada Khwaja Mohammad, Khan Bahadur.
Ali, Maulvi Syed Nawber.
Armstrong, Mr. W. L.
Ashworth, Mr. S. G.
Bahuk, Maulvi Syed Majid.
Bal, Babu Lalit Kumar.
Barua, Rai Sahib Panchanan.

Bose, Babu Jatindra Nath.
Birkmyre, Mr. H.
Bose, Mr. S. M.
Bottomley, Mr. J. M.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Babu Kishori Mohan.
Cohen, Mr. D. J.
Dain, Mr. G. R.
Das, Rai Bahadur Kamini Kumar.
Das, Rai Bahadur Satyendra Kumar.
Edgley, Mr. H. G. A.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Ghaznavi, the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim, of Dhdeur.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Guha, Mr. P. N.
Gupta, Mr. J. N.
Gupta, Rai Bahadur Mahendra Nath.
Haque, Khan Bahadur Maulvi Azizul.
Hogg, Mr. G. P.
Hoopes, Mr. G. G.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Mr. Kumar Rahman.
Martin, Mr. O. M.
Miller, Mr. G. G.
Mitter, the Hon'ble Sir Provash Chunder.
Mitter, Mr. S. C.
Mitra, Babu Sarat Chandra.
Momin, Khan Bahadur Muhammad Abdul.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Mullick, Mr. Nalinda Behary.
Nag, Reverend B. A.
Nag, Babu Suk Lal.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Khwaja.
Quasem, Maulvi Abul.
Raheem, Mr. A.
Rahman, Mr. A. F. M. Abdur.
Ray, Babu Khetter Mohan.
Ray, Babu Nagendra Narayan.
Reid, the Hon'ble Mr. R. N.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Babu Haribansa.
Roy, Mr. Saileswar Singh.
Roy, Mr. Sarat Kumar.
Roy, Mr. S. N.
Roy Choudhuri, Babu Hem Chandra.
Sachse, Mr. F. A.
Sahana, Babu Satya Kinkar.
Sarkar, Rai Bahadur Rebati Mohan.
Sen, Mr. B. R.
Sen, Rai Bahadur Jogesh Chandra.
Singh, Srijut Taj Bahadur.
Sinha, Raja Bahadur Bhupendra Narayan, of Rashiper.
Sumner, Mr. S. R.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Walker, Mr. W. A. M.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

NOES.

Ali, Maulvi Hassan.
Chowdhury, Maulvi Abdul Ghani.
Choudhury, Maulvi Rorai Abser.
Eusufji, Maulvi Nur Rahman Khan.
Fazlullah, Maulvi Mohammad.
Hakim, Maulvi Abdul.
Haque, Razi Emdadul.
Kasem, Maulvi Abul.
Khan, Maulvi Tamizuddin.
Maiti, Mr. R.
Rahman, Maulvi Azizur.
Ray, Babu Amulyadhan.
Sen Gupta, Dr. Naresh Chandra.

The Ayes being 68 and the Noes 13, the motion was carried.

Mr. PRESIDENT: I now propose to take up the Bill clause by clause.

Clause 1.

Mr. O. M. MARTIN: Sir, I beg to move that in clause 1, in line 2, for the figures "1933," the figures "1934" be substituted.

The motion was put and agreed to.

Mr. PRESIDENT: The question before the House is that clause 1, as amended, stand part of the Bill.

The motion was put and agreed to.

Mr. PRESIDENT: The question before the House is that clause 3 stand part of the Bill.

The motion was put and agreed to.

Mr. PRESIDENT: The question before the House is that clause 4 stand part of the Bill.

The motion was put and agreed to.

The Hon'ble Sir PROVASH CHUNDER MITTER: Before we take up clause 6 I have a submission to make for your consideration. Clause 6 contains a large number of amendments and there are certain controversies about them. I have been approached and I am told that there are conversations going on about some compromise. If you have no objection, I would like to take up clause 6 at a later time. I am quite willing to take it up at a later stage if the House agrees, Sir.

Mr. PRESIDENT: Members of this House may remember that on many similar occasions I have been accommodating and that for obvious reasons. I think Sir Provash has made a reasonable request. By compromise many improvements are often effected. I would be the last person to stand in the way of it. I, therefore, postpone the consideration of clause 6.

I will take clause 7.

The question before the House is that clause 7 stand part of the Bill.

The motion was put and agreed to.

Babu KISHORI MOHAN CHAUDHURI: I beg to move that in clause 8, in proposed section 51A (2), in line 4, for the words "one hundred" the word "twenty" be substituted. I think, Sir, it needs no special argument.

The Hon'ble Sir PROVASH CHUNDER MITTER: I oppose the motion on a very short ground. Although the provision in the Bill is Rs. 100, it does not follow that the Collector will invariably impose the fine to that extent. But when there is deliberate contumacy, the Collector may have to do it. I oppose this motion on this short ground.

The motion was put and lost.

Mr. PRESIDENT: The question before the House is that clause 8 stand part of the Bill.

The motion was put and agreed to.

Mr. PRESIDENT: The question before the House is that clauses 9 and 10 stand part of the Bill.

The motion was put and agreed to.

Clause 11.

Maulvi SYED MAJID BAKSH: I beg to move that in clause 11 (*c*), in line 2, for the words "six years" the words "four years" be substituted.

Sir, if we had taken this clause earlier I would have made my reason clearer because it is for the first time in that clause the words "limitation for 6 years" occur. Now my ground for this is: cess is sometimes, if not in many cases, realised along with rent. The landlord institutes a rent suit and along with it he institutes a suit for cess. In a rent suit limitation is for 4 years so that it should be in conformity with rent law. If 6 years be retained an anomaly will occur because if the period is fixed at 6 years the landlord will institute a suit for rent along with cess for 4 years only, but 2 years will be left outstanding. Again after 4 years when he will institute a suit for rent he will include cess for 4 years so that 4 years' cess will remain outstanding. Therefore, a time will come when a separate suit will have to be instituted for the realisation of cess. Of course, the matter is different when cess is realised through certificate procedure. But all cesses are not realised by certificate procedure. When cess becomes a public demand and when it is due to Government or an estate managed by Government the public demand is realised under certificate procedure. In the case where landlords realised rent through rent suits certificate is not applicable and in the cases of rents for 4 years there is the limitation. Here is the anomaly and in a large number of cases complications will arise. The landlord will at the first instance sue for 4 years for rent and for cess he will wait for 2 years and institute a suit for cess. For that reason I wish to bring this law into conformity with rent law.

The Hon'ble Sir PROVASH CHUNDER MITTER: I think the arguments of Mr. Majid Baksh are based on a misconception. This particular clause which we are now discussing is with reference to cess payable from rent-free holdings. The amendment refers to section 64A of the Cess Act. Section 64A says:—"All sums due to the holder of any estate or tenure under the provisions of this Chapter, in respect of any land held rent-free, may be recovered by such holder from any owner or holder of such rent-free land....."

About realisation of cess from rent-free holdings there is really a great difficulty. Very often the amount payable as cess for rent-free

holdings may be 4 annas, 8 annas, Re. 1 or Rs. 2. Now if the landlord has to sue on the basis of 2 annas or Rs. 2 and there may be 4 or 5 different parties living in different places, the cost of the suit becomes very expensive as compared with the amount of the claim. Those members of this House who were members of the Cess Conference may remember that when this matter was raised in the Cess Conference, Mr. Thompson, who is neither a landlord nor a tenant, said he would have no objection to 7 years. So far as this clause is concerned, it has only been introduced to remove a practical difficulty.

As regards the analogy given by Mr. Majid Baksh that analogy cannot apply to a suit for rent-free cess because in the case of rent-free holding there can be no suit for rent. The suit must be only for cess. There cannot be any suit for a part of the claim, the limitation of which is 3 years 11 months (not 12 months, that is 4 years), and part of the claim for 6 years. I hope Mr. Majid Baksh will withdraw his motion on this ground. No doubt he may put forward this argument or any other argument about clause 6—

Maulvi SYED MAJID BAKSH: There is the difficulty of anomaly in law.

The Hon'ble Sir PROVASH CHUNDER MITTER: There is no anomaly, because the suit in the case of rent-free holding is only for the cess and there is no claim for rent. However, I have explained and if he does not withdraw I must oppose it.

The motion was put and lost.

Mr. PRESIDENT: The question before the House is that clause 11 stand part of the Bill.

The motion was put and agreed to.

Babu KHETTER MOHAN RAY: I beg to move that clause 12 be omitted.

My reason is this: Section 79 empowers the Collector under the present Act to make new valuations every year and for that purpose notices are to be issued and served and returns are to be made under this Chapter. To this section a proviso has been added by this Bill that if the Collector is satisfied that though net profits accrued, from any property assessable under this Chapter, in any previous years, no cess was paid in respect thereof the Collector shall proceed to ascertain and determine by such ways or means as to him shall seem expedient the

net profits of such property for each such year during period not exceeding the last preceding three years, and road cess and public works cess shall be payable in respect thereof at the rate determined for each such year, respectively, and the Collector shall add the amount of such cess to the amount shown in the notice to be served under section 80 and such cess shall be payable in two equal instalments as provided in section 80. This proviso intends to have some retrospective effect with respect to land which was not valued in the previous valuation of the land. Under section 79 every year the Collector can make new valuation, then why should the people be burdened with the cess for three years in cases where the Collector made no valuation previously. I think it will increase the burden of the tenants, the *zemindars* and the tenure-holders. Consequently, I suggest that this proviso be omitted. Generally, this proviso will be applicable to a certain piece of land which was not in existence at the time of the previous valuation and such pieces of land may be found in the *chars* in the midst of big rivers. Only in the case of those lands will this proviso be applicable. Under these circumstances, I hope the Hon'ble Member in charge will accept my amendment.

Mr. O. M. MARTIN: I beg to oppose this amendment. The mover of the amendment is under a misapprehension as regards the use which is made of section 79. Section 79 is a part of Chapter V which refers to the valuation and levy of cess on owners of mines, collieries and other immovable properties which are not assessed under Chapter II. Section 72 of the Act provides that before the close of each year, the Collector shall cause a notice to be served on the owner, chief agent, manager or occupier of every mine, quarry, tramway, railway, etc., and such notice shall require a return showing the net annual profits calculated on the average for the last three years. Assessment is made on the basis of this return. But it has been held by Government's legal advisers that no retrospective effect can be given to the assessment and that an owner of a coal mine, for instance, who for several years has escaped assessment can only be assessed for the year within which notice has been served and for no previous years. This has occasionally caused a very heavy loss to the district board. I will give one instance. In one case in 1931 a notice was served on a gentleman who received royalties from a certain colliery and it was discovered that between 1928 and 1930 he had realised in royalties over Rs. 21,000 for which he had not paid one pie in cess. It was also discovered that under the existing law he could not be made liable to pay cess on this amount but only in respect of the income for the year 1931.

A parallel to this sort of retrospective assessment at present exists under section 70 of the Act. Section 70 enables the Collector to value

and assess rent-free land with retrospective effect for 3 years. It is on the analogy of this section and to prevent serious losses to the district board that this new provision is proposed to be inserted, and I think that the House will agree that this is a very necessary provision. It will not affect anybody except the owners of mines, collieries and such like. In fact, there is only one district in Bengal, namely, Burdwan, which will be appreciably affected; but the one or two cases in which losses do occur which are sufficiently serious to justify a change in the law.

The motion was then, by leave of the Council, withdrawn.

The motion that clauses 12 and 13 stand part of the Bill was put and agreed to.

Clause 14.

Mr. PRESIDENT: I draw the attention of the House to motion No. 51. It has been disallowed as previous sanction of His Excellency the Governor, which is required under section 80C of the Government of India Act, has not been obtained.

The Hon'ble Sir PROVASH CHUNDER MITTER: Before Maulvi Abul Quasem moves this amendment, I may inform him that I have a similar motion in amendment No. 56. I have no objection to the substitution of his amendment for mine.

Mr. PRESIDENT: In that case the Maulvi Sahib may formally move it.

Maulvi ABUL QUASEM: Sir, I beg to move that in clause 14, for the proviso to sub-section (*1*) of proposed section 107A, the following proviso be substituted, namely:—

"Provided that no such valuation or revaluation shall take effect before the expiration of the period of five years from the date from which the last preceding valuation, if any, took effect."

The motion was put and agreed to.

The Hon'ble Sir PROVASH CHUNDER MITTER: Sir, before the Rai Bahadur moves his amendment, I may shorten the discussion by stating that amendments Nos. 59, 60 and 62 are more or less on

similar lines. The Rai Bahadur wants to exclude tank, ditch, drain, actual sites of temples, churches, mosques and other buildings. Motion No. 60 by Munindra Deb-Rai Mahasai is practically confined to places of worship. In motion No. 62 Maulvi Abul Quasem seeks to exclude mosque, temple or any other place of public worship of pilgrimage. We are willing to accept exclusion of places of worship, but not place of pilgrimage or tank, ditch, drain. If the hon'ble mover on this assurance withdraws his motion, then it may be redrafted, so as to confine the exclusion to places of worship.

Mr. PRESIDENT: There is no mention of "pilgrimage" in the Rai Bahadur's motion.

The Hon'ble Sir PROVASH CHUNDER MITTER: We are willing to accept the exclusion of places of public worship, which is the common element in the three amendments.

Rai Bahadur KAMINI KUMAR DAS: Sir, I beg to move that in clause 14, in proposed section 107C(2)(*b*)(*i*), in line 1, after the word "road" the words "tank, ditch, drain, actual sites of temples, churches, mosques and other buildings of the like nature" be inserted. My only object in moving this amendment is to bring to the notice of the Hon'ble Member that in this clause only those lands have been declared rent free which do not yield any income. By tanks and ditches I mean those places which do not yield any profit. I hope the Hon'ble Member will kindly accept this part of my motion also.

Mr. PRESIDENT: Then you are not prepared to amend your motion according to the suggestion of the Hon'ble Member?

Rai Bahadur KAMINI KUMAR DAS: I accept "mosque, temple, etc." I only want to submit that tanks, ditches and drains which do not yield any profit should also be excluded.

Mr. PRESIDENT: That is a different matter. The question is, are you prepared to amend your motion according to the suggestion of the Hon'ble Member in charge of the Bill? A direct answer would simplify matters.

The Hon'ble Sir PROVASH CHUNDER MITTER: If they agree on the question of substance, then it can be left out for redrafting.

Rai Bahadur KAMINI KUMAR DAS: I agree.

Mr. PRESIDENT: I suggest that in that case the best thing to do is for the Rai Bahadur to withdraw his amendment, and to consider this matter when amendment No. 62 is taken up—it appears to be more suitable for the purpose of compromise on lines suggested.

The motion was, by leave of the Council, withdrawn.

Mr. PRESIDENT: In view of the proposed compromise, Kishori Babu, do you intend to move your amendment which comes next?

Babu KISHORI MOHAN CHAUDHURI: Yes, Sir. I beg to move that in clause 14, in proposed section 107C(2)(*b*)(*i*), in line 2, after the word "*khal*" the words "tanks used for irrigation free of rent" be inserted.

I do not know what the compromise amounts to. My amendment is that tanks for which no rent is realised should be exempted. I do not know whether my friend withdraws that portion of his amendment. For a long time the privilege of paying no rent for tanks used for irrigation is being enjoyed by the tenants. Now in the settlement operations these tanks have been assessed at certain rates and the result is that the *zemindars* taking advantage of this are realising rent and the tenants have been deprived of a privilege which they have so long enjoyed. So I hope the Hon'ble Member in charge will kindly consider my suggestion.

The Hon'ble Sir PROVASH CHUNDER MITTER: Sir, my friend's amendment is based on a misconception, and I must oppose it. The members of the Select Committee will remember that this question was fully discussed there. But apart from that Babu Kishori Mohan Chaudhuri is still thinking of rent as the basis of assessment of cess, or in the alternative from the point of view of profit derived. The Select Committee has already accepted the principle of acreage rate. Whether a tank should be excluded or not, or whether it should be cess free or not—all this comes under a different section. A certain rent has been fixed and it must come as a deduction under the acreage rate if the land is not cess-free. Apart from that it will add to the expensiveness of the procedure if the case of every tank or every *khal* used for irrigation purposes free of rent has to be examined separately. In that case, the revaluation officer will have to make many local inquiries. However, this was fully discussed in the Select Committee and I see no reason why his amendment should be accepted. I hope my friend will withdraw his motion.

The amendment was then put and lost.

Maulvi ABUL QUASEM: Sir, I beg to move that in clause 14, in proposed section 107C(2)(b)(i), in line 3, after the word "ground" the words "mosque, temple or any other place of public worship" be inserted.

With the leave of the House I should like to omit the words "or pilgrimage" from my original amendment.

Mr. PRESIDENT: You need not ask the leave of the House to omit those words. In fact, you have moved your amendment without those words by my permission.

Maulvi ABUL QUASEM: As I understand, Sir, that Government is willing to accept the amendment, I am not going to make a speech.

The Hon'ble Sir PROVASH CHUNDER MITTER: I accept this amendment.

The amendment was put and agreed to.

Adjournment.

The Council was then adjourned till 3 p.m. on Tuesday, the 23rd January, 1934, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Tuesday, the 23rd January, 1934, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh), in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers, and 97 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Joynagar Cut Scheme.

*12. **Maulvi SYED MAJID BAKSH:** (*a*) Will the Hon'ble Member in charge of the Irrigation Department be pleased to state whether the Joynagar Scheme for flushing the river Kapotakshi is ready?

(*b*) If the answer to (*a*) is in the affirmative, when is the Joynagar Cut going to be effected?

SECRETARY to GOVERNMENT, IRRIGATION DEPARTMENT (Mr. L. R. Fawcus): (*a*) and (*b*) A copy of Bengal Government letter No. 1416-I, dated the 8th July, 1933, addressed to the Chairman, District Board of Nadia (through the Collector of Nadia), which explains the position with regard to the scheme, is laid on the table.

Copy of letter No. 1416-I, dated the 8th July, 1933, from the Secretary to the Government of Bengal, Irrigation Department, to the Chairman, District Board of Nadia (through the Collector of Nadia), referred to in the reply to starred question No. 12.

I am directed to invite a reference to the note of the Conference held in the room of the Hon'ble Member in charge of the Irrigation Department on the 3rd December, 1932, regarding the Joynagar and Hat Boalia Cut Schemes in the district of Nadia (copy forwarded to you with this department letter No. 365-I, dated the 10th February, 1933), and to forward herewith a copy of letter No. 1242-C.I., dated the 12th April, 1933, from the Chief Engineer, Bengal, Irrigation Department, together with the project estimate amounting to Rs. 9,410

referred to therein, for a cut from the river Mathabhanga at Joymagar to the Bhairab (lower down called the Kabadak) with the object of flushing the river Bhairab with silt-laden water from the Mathabhanga during the rains.

2. I am to say that if the District Board of Nadia desire to carry out the scheme under section 87 of the Local Self-Government Act according to the plans prepared by the Chief Engineer and in co-operation with the District Board of Jessore, and if the landlords and tenants concerned on being consulted by the Collectors, make no valid objection Government are prepared to grant permission to make the Cut under the Embankment Act on the following conditions:—

(1) That the District Board of Nadia jointly with the District Board of Jessore—

(a) undertake the entire responsibility for any injury, loss or damage which may result in consequence of the Cut and assume all liability in respect of any claim for compensation or any other claim which may be made on the ground of such injury, loss or damage,

(b) agree that Government may at any time close the Cut or at their option take such action to control it as Government may consider necessary,

(c) agree to pay to Government any expenses which may be incurred by Government in controlling or closing the Cut.

(2) That the Cut shall be designed to carry 770 cusecs at ordinary Highest Flood Level, *i.e.*, reduced level 33·0 and that a pitched profile of enlarged section shall be provided with discharge of 1,200 cusecs.

(3) That the depth of excavation at the Eastern Bengal Railway bridge No. 147 shall not be more than 2·02 feet.

3. It is presumed that the District Board will make arrangements with the District Board of Jessore for sharing the expenditure including compensation if any.

Assistant sub-inspectors of Calcutta Police.

*13. **Mr. NARENDRA KUMAR BASU:** (a) Will the Hon'ble Member in charge of the Police Department be pleased to state—

(i) whether it is a fact that the assistant sub-inspectors of the Calcutta Police are not given acting appointments in the case of casual vacancies in the higher ranks; and

(ii) whether there is an age-bar to their being promoted to higher rank?

(b) If the answer to (a) is in the affirmative, will the Hon'ble Member be pleased to state whether there is any such rule in any other department of Government?

MEMBER in charge of POLICE DEPARTMENT (the Hon'ble Mr. R. N. Reid): (a)(i) Assistant sub-inspectors may act in vacancies other than leave vacancies there being a leave reserve for the latter purpose.

(ii) Yes.

(b) If the question relates to the matter of age-bar a reference may be had to rule V (2) (b) of the Provincial Services Recruitment Rules.

Recruitment to Calcutta constabulary.

*14. **SETH HANUMAN PRDSAD PODDAR:** (a) Will the Hon'ble Member in charge of the Police Department be pleased to state whether it is a fact—

(i) that there has been within recent years an enormous increase of vehicular traffic of the latest type and a corresponding increase in the number of street accidents; and

(ii) that the traffic police consists at present of the practically uneducated and illiterate hailing from up-country?

(b) Are the Government considering the desirability of improving the function of superintendence by appointing a better equipped and educated *bhadralok* class?

(c) Is the Hon'ble Member aware that this will solve to some extent the unemployment problem of the *bhadralok* class which has been acutely engaging the attention of the Government?

The Hon'ble Mr. R. N. REID: (a) (i) No. A reference to pages 20, 21 and 23 of the Report on the Police Administration of Calcutta for the year 1932 shows that there has been a decline between 1930 and 1932 both of the number of vehicles and of accidents.

(ii) No. Seventy-five per cent. of the men of the Calcutta Police are literate in their own vernacular and 25 per cent. are literate in English.

(b) and (c) There is no bar to men of the *bhadralok* class enlisting in the Calcutta constabulary, provided they satisfy the prescribed standards of fitness.

Mr. SHANTI SHEKHARESWAR RAY: With reference to (*b*) and (*c*), how many persons belonging to the *bhadralok* class have been found fit?

The Hon'ble Mr. R. N. REID: I require notice.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Pending criminal cases in Faridpur Sessions Courts.

6. **Rai Sahib AKSHOY KUMAR SEN:** Will the Hon'ble Member in charge of the Judicial Department be pleased to lay on the table a statement showing—

(*i*) how many criminal appeals were disposed of by the Sessions Courts at Faridpur during the year 1933; and

(*ii*) how many such appeals and cases are still pending?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*i*) 221.

(*ii*) On the 9th January, 1934, twenty-nine criminal appeals and twenty-two other criminal cases were pending.

Society for the Prevention of Cruelty to Animals.

7. **SETH HUNUMAN PROSAD PODDAR:** (*a*) Has the attention of the Hon'ble Member in charge of the Police Department been drawn to the way in which the Bengal Cruelty to Animals Act is at present administered by the Society for the Prevention of Cruelty to Animals?

(*b*) Is the Hon'ble Member aware that the recommendations of the Pearson Committee have never been given effect to by the present Society?

(*c*) Are the Government instituting a public inquiry to remove public grievances in the matter?

The Hon'ble Mr. R. N. REID: (*a*), (*b*) and (*c*) The whole question of the administration of the Cruelty to Animals Act in Calcutta is now under the consideration of Government.

Maulvi ABUL QUASEM: Will the Hon'ble Member be pleased to state when the Government is likely to arrive at a decision on this question and when is that decision likely to be made public?

The Hon'ble Mr. R. N. REID: It is difficult to give an exact estimate, but I should hope that a decision may be arrived at within the next two or three months.

Revised scale of pay for Provincial Civil Service.

8. **Rai Bahadur SATISH CHANDRA MUKHERJI:** (*a*) Will the Hon'ble Member in charge of the Finance Department be pleased to state whether it is a fact that the Government are preparing a scheme of pay for the Provincial Civil Service—both Judicial and Executive?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state—

(*i*) whether the scheme will apply only to new entrants or to present incumbents also;

(*ii*) when is this scheme expected to be brought into force; and

(*iii*) whether the Government intend publishing the scheme at an early date?

MEMBER in charge of FINANCE DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*) and (*b*) Revised scales of pay for services and posts under the rule-making control of the Local Government are under preparation, including scales for the Executive and Judicial branches of the Bengal Civil Service. The intention is that they shall be brought into force with effect from the 1st April, 1934. They will be promulgated in the *Calcutta Gazette* before that date by rules which will determine, *inter alia*, the persons to whom the revised scales will apply. It is proposed that the new scales should apply to all persons first appointed to Government service on or after the 22nd July, 1931, the date from which the *ad interim* orders imposing the 15 *per cent.* cut took effect. It is not contemplated that they should apply to persons appointed to Government service before that date who are holding posts which they held substantively before that date: how far they should be made applicable to such officers, when promoted after that date, is a question still under consideration.

Babu JITENDRALAL BANNERJEE: Has there been any correspondence between the Government of Bengal and the Government of India as regards the applicability of the revised scale of pay, especially in the case of new promotions?

The Hon'ble Mr. J. A. WOODHEAD: No, Sir; there has been no such official correspondence.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Will the Hon'ble Member be pleased to state whether it is proposed to reduce the scale of pay of all these services—and not of the Judicial and Executive branches of the Provincial Services only?

The Hon'ble Mr. J. A. WOODHEAD: It is not proposed, I think, to reduce the pay of all Government servants, if that is what the hon'ble member wishes to inquire.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Under the new scale, will the pay of the Bengal Civil Service—Judicial and Executive—be reduced or increased?

The Hon'ble Mr. J. A. WOODHEAD: In the Bengal Civil Service—Judicial and Executive—the new scales will be lower than the existing scales.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Are these the only two services which have been selected for reduction of pay?

The Hon'ble Mr. J. A. WOODHEAD: No, Sir; certainly not.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Will the Imperial Services be affected by the new rules which are going to be promulgated?

The Hon'ble Mr. J. A. WOODHEAD: That is a question, Sir, which I cannot answer.

Maulvi SYED MAJID BAKSH: Will the Hon'ble Member be pleased to state whether by lowering the scales of pay he means that Government is returning to the pre-war scales of pay?

The Hon'ble Mr. J. A. WOODHEAD: I would ask the hon'ble member to wait and see.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Is the Government considering the question of recommending to the proper authorities the reduction of the pay of the Indian Civil Service and other Imperial Services also in the same proportion as they are trying to reduce the scales of pay of the Provincial Services?

The Hon'ble Mr. J. A. WOODHEAD: I am afraid I cannot reply to that question.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Considering the importance of this subject, will it not be desirable to postpone the fixing of the new scales of pay till the new Reformed Government comes in, so that the future Government may have a say in the matter?

The Hon'ble Mr. J. A. WOODHEAD: That is a matter of opinion to which I cannot give a reply off-hand.

Mr. W. H. THOMPSON: Is it proposed to touch my and Khan Bahadur Momin's pension?

(No answer.)

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Member clearly state whether it is proposed to bring changes in the pay of the Imperial Services as a whole? It is not the decision that we want, but from the answer given by the Hon'ble Member it is not clear whether steps have been taken——

Mr. PRESIDENT: That question has already been raised and the Hon'ble Member has declined to answer it.

Khan Bahadur MUHAMMAD ABDUL MOMIN: May I suggest, Sir, that Government should consult the Legislative Council before final orders are passed in this matter?

The Hon'ble Mr. J. A. WOODHEAD: I have no objection to the hon'ble member making such a suggestion.

LEGISLATIVE BUSINESS

GOVERNMENT BILL.

(Discussion on the Bengal Cess (Amendment) Bill was then resumed.)

Maulvi SYED MAJID BAKSH: I beg to move that in clause 14, in [illegible] section 107C(3)(ii), the word "and" at the end be omitted

and proposed section 107C(3)(iii) be omitted. Sir, the object is patent. I do not want to exclude forests which yield a large revenue. The owners of forests should not be excluded from the liability to pay cess. The cess is generally a taxation levied on profits and since forests bring in profits to their owners, I do not understand why they are going to be so favourably considered as against other properties in the matter of exemption from the payment of cess. I, therefore, propose the omission of section 107(3)(iii).

Mr. O. M. MARTIN: In the report of the Select Committee it is stated that forests have been exempted from the operation of this chapter and left to be dealt with under Chapter V. The effect of the proposed amendment would be to make private forests liable to assessment under this chapter, and an acreage rate would have to be imposed. The profits from forests fluctuate greatly from year to year, and it was considered more convenient to the owners that cess should be paid in accordance with the profits derived therefrom.

It is also to be noted that the acreage rate under this chapter is to be assessed as if the lands were ordinary agricultural land. This will be clear if the provisions of section 107D are examined. If forests are to be dealt with under this chapter the acreage rate would have to be determined on different principles, for which no provision has been made in this chapter. At present the position as regards forests is that they can be assessed either under Chapter II or under Chapter V according as circumstances vary. That is the position at present.

So I oppose the amendment.

Dr. NARESH CHANDRA SEN GUPTA: I rise on a point of information. Does not the language of this clause exclude forests from assessment altogether? The language is this: "except as otherwise provided in this section all lands shall be cess-paying." That is to say, lands otherwise provided for will not be cess-paying and under that comes forests. There is no qualification indicating that the forests should be otherwise assessable.

Mr. O. M. MARTIN: This will be made clear by amendment No. 66 which Rai Bahadur Mahendra Nath Gupta is just going to move.

The motion of Maulvi Syed Majid Baksh was then put and lost.

Rai Bahadur MAHENDRA NATH GUPTA: I beg to move that in clause 14 to clause (*iii*) of sub-section (*3*) of proposed section 107C the following proviso be added, namely:—

"Provided that the Collector may, at his discretion, decide what lands shall be assessable under Chapter V as forests."

The word "forests" has been added under sub-section (*3*) of section 107C by the Select Committee, and it has been already explained just now that forests will thus be assessable to cess under Chapter V on the basis of profits from forest-produce, timber, etc. Forests are, however, variously described in the record-of-rights as *ban*, jungle, etc., and it is, therefore, necessary to have a provision as proposed in the amendment, so that there may not be any difficulty or hardship in the practical application of the provisions of Chapter V.

Khan Bahadur MUHAMMAD ABDUL MOMIN: I am afraid the amendment as it is framed really does not convey the meaning which I think the Rai Bahadur intends it to convey. What is really intended, I believe, is that forests generally should be excluded from the operation of Chapter V but stray forests in villages which may have been recorded as jungles or shrubs and so forth in the record-of-rights of villages may be assessed to cess if the Collector thinks fit. I believe that is the meaning. If that is so, the amendment as now worded will not convey that meaning. What is really intended is: "provided that the Collector may at his discretion assess such forests under this chapter as he thinks fit." That, I believe, is the meaning that is intended to be conveyed, if that is so, I suggest that the wording may be changed.

The Hon'ble Sir PROVASH CHUNDER MITTER: May I explain? The position is this. In the Bill as presented to the Council we had excluded forests, so that forests would be cess-free. But in the Select Committee in section 107(*3*)(*iii*) the words "and forests" were included. The Select Committee, although they included forests, did not, however, lay down any definite procedure by which to ascertain what a forest was and who was to find out what that forest was. Therefore, the object of this amendment is to give authority to the Collector to decide which lands will be assessable under Chapter V. Therefore, a provision like this is necessary to give effect to the Select Committee's decision about the inclusion of forests. The Khan Bahadur's point amounts to this: as to whether a particular jungle which does not yield any income is provided for in the definition of cess-free. Certain types of land will be cess-free. If it is cess-free no question arises.

But supposing a question is raised as to whether a particular area should be cess-free or whether an area which holds timber should not be cess-free, somebody has got to decide those points whether they are cess-free or not, but when it has been decided then it comes under Chapter V.

Khan Bahadur MUHAMMAD ABDUL MOMIN: But it does not come under Chapter V—Forests.

The Hon'ble Sir PROVASH CHUNDER MITTER: But if the Khan Bahadur will indicate a wording which is more suitable I am prepared to accept the suggestion; there will be no difficulty for this reason that forests can only be assessed under Chapter V as recommended by the Select Committee. We did not put in any note of dissent as forests cannot be assessed under the acreage rate and as soon as we know what is going to be assessed under Chapter V there is an end of it. Forests cannot be assessed under the acreage rate for in that case the cess would be far too high. The cess is intended to apply to agricultural land. A forest may yield a profit of annas eight or Rs. 3 per acre but generally speaking agricultural land will yield far higher profits. Therefore the difficulty will be removed as soon as we give authority to the Collector to decide what will be assessed under Chapter V as forests.

Dr. NARESH CHANDRA SEN GUPTA: But the language is entirely different. It is this: provided that the Collctor may at his discretion decide what land shall be assessable under Chapter V as forests; it comes to this: that under clause 2(*ii*) jungle lands are cess-free, that is, what may be classed as jungle is cess free. Under sub-clause (*iii*) what may be classed as forests does not come under this chapter at all. Therefore, there are only two classes of land—they are either jungles or forests, or they are neither jungles nor forests but ordinary agricultural land. An orchard, for example, is neither a jungle nor a forest. These are the three things. The Collector may have to decide whether a particular area of land is a forest or a jungle or assessable as agricultural land. That is not the sense conveyed by this amendment. Forests are excluded from the operation of this chapter, but the Collector is given discretion to decide what land should be assessable under this chapter as forests or under Chapter V. So we are leaving discretion to the Collector even to leave out genuine forests merely at his choice. That is not what is wanted. It will be for the Collector to decide and the Collector should merely have the power to decide whether a [illegible]

plot of land is assessable as a forest under Chapter V or as an agricultural land and what land should be regarded as a cess-free jungle. I think that would be making the meaning perfectly clear. The Collector should decide what lands are forests, what lands are jungles which are cess-free, and what lands are assessable as ordinary agricultural lands.

Mr. NARENDRA KUMAR BASU: What I want to point out is this. In the original Bill as presented to this House forests were entirely exempted from assessment. But in the Select Committee it was suggested that forests should be exempted from Chapter VIIA, because, as has just been pointed out by the Hon'ble Sir Provash Chunder Mitter, if they were settled on an acreage basis it would cause a great deal of injustice. But it was also pointed out that forests as such should not be exempted from assessment altogether but might come in under Chapter V. Chapter V says—

"On the commencement of this Act in any district, and thereafter before the close of each year, the Collector of the district shall cause a notice to be served upon the owner, chief agent, manager or occupier of every mine, quarry, tramway, railway and other immovable property not included within the provisions of Chapter II, etc."

Therefore, it is necessary to have a provision saying that the Collector shall have discretion to declare which forests as immovable properties shall be assessable under Chapter V; but I think as has been pointed out by Khan Bahadur Abdul Momin, the language of the proposed amendment is open to misconstruction. Accordingly I would ask the Hon'ble Member to consider whether he is prepared to change the wording in this way: "Provided the Collector may at his discretion decide what forests shall be assessable under Chapter V." That would probably solve the difficulty and it will not be open to the misconstruction pointed out by the Khan Bahadur.

The Hon'ble Sir PROVASH CHUNDER MITTER: Sir, I do not want to make a second speech, but I just want your leave to make a suggestion for your consideration as to whether you will agree that this matter of wording the amendment may be more suitably taken up later, so that an agreed draft may be arrived at; when that is done we will let you know.

Mr. PRESIDENT: I have no objection and I gladly grant compliance to your request which is quite reasonable.

[The matter was, thereupon, postponed.]

Raja Bahadur, BHUPENDRA NARAYAN SINHA, of Nashipur: I beg to move that in clause 14 in lines 1 to 4 of clause (*a*) of sub-section (*2*) of proposed section 107D, for the words "one-sixth of the value of the gross produce per acre of ordinary agricultural land in the area for which the rate is being determined as estimated" the following be substituted, namely:—

"One-sixth of the value of the gross produce per acre of all cess-paying lands in the area for which the rate is being determined, estimated on the assumption that all such land produces a normal crop of paddy."

The reason for moving this amendment is very simple, namely, there is no data on which to make an estimate of the price of the products of all classes of land. There are lands which produce cocoanut, jute, sugar-cane, grount-nut and so forth, but there is no guide to show that in a previous year the standard prices of various crops were such and such, that is no definite figure of prices is available. On the other hand if paddy be taken as the standard of assessment, all the necessary datas can be gathered easily. In the annotated edition of the Bengal Tenancy Act the prices of paddy during different years are shown. The *Calcutta Gazette* of different years will give us all information about the price of paddy. From the statistical reports of the Agricultural Department we can also gather these figures. The price of jute can also be ascertained but not so satisfactorily as that of paddy. As for other crops, the materials certainly are very limited. In the Rangpur district tobacco is growing profusely but no statistical report is available. In some places sugarcane is being grown. There too our difficulty will be the same. As for minor crops like mango, potato, ginger and so forth, no statistical report of the prices for any year can be gathered. For this reason I propose to introduce the normal crop of paddy to be the standard for ascertaining the value of the produce of all classes of land.

The Hon'ble Sir PROVASH CHUNDER MITTER: I may remind the House that Government have put in an amendment by which discretion is left to the Local Government to value all assessable lands as if such lands were under paddy; that I think ought to meet a great part of the Raja Bahadur's difficulty. But I am afraid I cannot accept the amendment as it stands. If we assess as if it were paddy and have one-sixth then the income of every district board would be reduced. That is a thing which the Raja Bahadur should not certainly want. Of course whether he actually wants this or not, we do not know. The attitude of Government generally in this connection is this: Government have no interest in the matter. Not a single rupee of the cess will come into the coffers of the Provincial Exchequer but all the cess will go to the district boards. The district boards have to discharge important duties;

at the same time Government have to hold the balance. Government do not want that the taxpayer should pay too much unreasonably. Therefore, what Government is aiming at is that there should not be any undue increase in cess but also that the income of the district boards should not be decreased but may be increased to a reasonable extent whereon such increase will be fair. All these matters were very fully discussed in the Select Committee; furthermore I would remind the House that it is very difficult to go into elaborate calculations on the floor of the House. As I have already said if the Raja Bahadur's amendment be accepted the income of most district boards will be reduced. That is not fair. Therefore if the Raja Bahadur presses his motion, I must oppose it. On the other hand, I must ask the Raja Bahadur to bear in mind the amendment passed in the Select Committee, namely, that the increase will not be more than 20 per cent. Apart from that, we also have an amendment to the effect that the local Government will have the authority to assess as if all assessable land was under paddy. Therefore, I would ask the Raja Bahadur——

Raja Bahadur BHUPENDRA NARAYAN SINHA, of Nashipur: I do not object to 1/4th, or 1/5th, or 1/6th personally, but what I want to know is whether——

Mr. PRESIDENT: You cannot speak again, Raja Bahadur. You may either press the motion, or withdraw it.

Raja Bahadur BHUPENDRA NARAYAN SINHA, of Nashipur: I do not want to make a speech, I am only asking for information. I would ask the Hon'ble Member——

Mr. PRESIDENT: I think Sir Pravash has made the position perfectly clear in that he has given notice of an amendment which will serve your purpose. If you are not satisfied with that explanation it is open to you to stick to your amendment.

Raja Bahadur BHUPENDRA NARAYAN SINHA, of Nashipur: I have been partly satisfied but in order to make it more clear——

Mr. PRESIDENT: If I were to allow every member to go on in this fashion, this Council will be converted into a Select Committee. I am sorry I cannot allow you to proceed.

The motion was, by leave of the House, withdrawn.

The Hon'ble Sir PROVASH CHUNDER MITTER: I beg to move that in clause 14, in line 1 of clause (*a*) of sub-section (*2*) of proposed section 167D, for the word "one-sixth" the word "one-fifth" be substituted.

Sir, originally in the Bill we had one-fifth of the gross produce of all kinds of agricultural produce. In the Select Committee it was changed to one-sixth of all kinds of agricultural produce. Since then, we have put in an amendment by which we have agreed, subject to Government option, to assess all assessable land as if such land was under paddy. But, apart from that, there is an intimate connection between this and the proposal in section 107D (2) (b) which says that there should be a limit fixed at 20 per cent. When that question comes up for discussion we shall make the position of Government clear, but for the present information of the House I may say that we are prepared to accept the proposal embodied in section 107D(2) (b) under certain conditions. But for the present one-fifth or one-sixth should not worry the members in any way.

Let us suppose that in a calculation prepared for a whole district the gross value of produce is estimated at Rs. 100 per acre; one-sixth of that would be Rs. 16⅔ per acre, but when you are estimating for 4,000 square miles, consisting of various crops of different value and produce, nobody can be certain that the estimate will be absolutely accurate. If an alternative estimate be made at Rs. 80 per acre, well one-fifth of that would be Rs. 16 per acre. There is practically no difference in the actual result between the two. Apart from that, supposing there is actually a difference of 3⅜ per cent. On the value of the gross produce what is the consequence? The assessment will be 2 pice in the rupee, that is, 1/32nd on this difference of 3⅜ per cent. The difference in the actual assessment on which the cess will be payable will be such a minute fraction that the difference in actual payment will be an absurdly low figure that it is only capable of being calculated as a mathematical problem. But the reason I have put in the amendment is that if there is any chance of assessing on the basis of paddy, we cannot possibly accept one-sixth. That amount again will reduce the income of the district board. One-fifth will satisfy every reasonable section of the House, be they representatives of the landlords or of the tenants. I would therefore present this amendment to the House, but if the House prefer, and subject to your ruling, Sir, I would take it up after 107D(2) (b) has been disposed of; but if you would like to take it up at this stage, I have no objection.

Khan Bahadur MUHAMMAD ABDUL MOMIN: The position, Sir, is a bit confused and I want to make it clear. In the Select Committee we held out for one-fifth of staple food crops. In the original Bill we had the value of the gross produce of the land, which meant the value of all crops produced including jute, tobacco, brinjal, and other things. In everything which concerns the *raiyat*, so far as rent settlements are concerned, from time immemorial, his economic condition has always been considered in terms of staple food crops irrespective of the fact

whether his lands are under food crops or not. It has been so from the time of *Ain-I-Akbari* and in all assessments with regard to tenancy land and the value of paddy or wheat in the particular area has always been taken into consideration in the past, and this appears to be the concensus of opinion now as will be seen from the very large number of amendments that have been tabled in respect to the matter. Sir Provash's amendment is that one-fifth of the value of the produce shall be the limit and not one-sixth. According to him we will either have to agree to one-fifth of the value of only staple food crop, or if we insist on one-sixth, in that case the value of other produce will have to be added to paddy. If you take the price of paddy only and also stick to one-fifth, the valuation will be very low. That is the position. Therefore, in considering all these amendments, I submit they should be taken and considered together. I would suggest that the sense of the House may be taken before you decide on this matter.

The Hon'ble Sir PROVASH CHUNDER MITTER: I have no objection. The atmosphere will be clearer later on.

Babu AMULYADHAN RAY: Sir, I beg to move that in clause 14, in proposed section 107D(*a*) in line 1, for the words "gross produce" the words "produce of the staple food crops" be substituted.

The Hon'ble Sir PROVASH CHUNDER MITTER: I must oppose this. I would add only one word. I must point out that not all lands grow staple food crops. For this reason I must oppose this, unless the member withdraws it.

The motion was put and lost.

Mr. PRESIDENT: I think this decision affects amendments Nos. 76 to 79.

Maulvi SYED MAJID BAKSH: What about my amendment?

Mr. PRESIDENT: That is governed by the decision on amendment No. 75.

Maulvi SYED MAJID BAKSH: I object to the language, not to the motion. My language is better.

Mr. PRESIDENT: Order, order.

Nos. 82-85 are covered.

Mr. SARAT KUMAR ROY: Sir, I beg to submit that my amendment is not covered.

Mr. PRESIDENT: Can you advance any argument in support of your assertion?

Mr. SARAT KUMAR ROY: That depends on the main question about staple food crops.

Maulvi SYED MAJID BAKSH: On a point of order, Sir. Hitherto your practice has been, that when amendments of a similar nature were moved to ask the members to move their amendments one by one and then have a general discussion. But in this particular case you have asked Mr. Amulyadhan Ray only to move his amendment and not the other members to move theirs and have arrived at a decision.

Mr. PRESIDENT: I am very sorry I cannot follow your argument at all. Babu Amulyadhan Ray's motion urged that for the words "gross produce" the words "produce of the staple food crops" be substituted.

Maulvi SYED MAJID BAKSH: But, Sir, my point is——.

Mr. PRESIDENT: Order, order. You should not speak when I am speaking; that is a breach of parliamentary etiquette. However, that motion has already been negatived by the House and it, therefore, stands committed to the decision, namely, not to substitute "produce of the staple food crops" for "gross produce." It is clear that the amendments which I skipped over makes a similar suggestion in some shape or other.

Mr. NARENDRA KUMAR BASU: With great respect, Sir, I beg to submit that by negativing the motion No. 75 the House said that the words "produce of the staple food crops" should not be substituted for the words "gross produce," that is to say, the House refused to commit itself to an unmeaning jumble; because if you substitute those words it would read like this: "one-sixth of value of the produce of the staple food crops".

Mr. PRESIDENT: I shall be grateful if you confine your remarks to any particular motion which you think is alive.

Mr. NARENDRA KUMAR BASU: I think No. 76 is alive. Taking 75 as carried then the language would be that "the rate shall not exceed one-sixth of the value of the produce of the staple food crops" which would be unmeaning, and because that would be unmeaning, the House negatived it. But if 76 is carried, it would convey quite a proper

meaning. Therefore the House in negativing 75 did not negative the idea of gross produce; it negatived something which would convey no meaning to anybody.

Khan Bahadur Maulvi AZIZUL HAQUE: We understood on the statement of Sir Provash that Government's position is that they accept one-fifth of staple food crops or one-sixth of gross produce.

The Hon'ble Sir PROVASH CHUNDER MITTER: No, no, that is not the position. Khan Bahadur is under a misapprehension. One-fifth we want to adhere to, but as a matter of compromise we are willing to have one-fifth of staple food crops in the manner indicated.

Khan Bahadur Maulvi AZIZUL HAQUE: That is exactly what we were saying.

Mr. PRESIDENT: Order, order. Let us leave aside that for the present. What Mr. Basu has said is rather puzzling. He thinks the House gave a decision, a qualified decision on a particular amendment.

Mr. NARENDRA KUMAR BASU: If I am permitted to explain, I beg to say that by negativing that amendment in that form the House has not negatived the other amendment.

Mr. PRESIDENT: How do you come to that?

Mr. NARENDRA KUMAR BASU: I for one opposed motion No. 75 simply on this ground that it would convey no meaning.

Mr. PRESIDENT: That is a different matter. The real point is whether there is any difference between the two motions in substance. I am not willing to consider whether the language of the one is better than the other. What I am concerned with is the substance of the two motions.

Mr. NARENDRA KUMAR BASU: What I was trying to submit was the question of substance; whether gross produce shall be taken to be agricultural produce or staple food crops. That was probably at the back of the mind of the mover of the amendment but the form of the amendment did not convey any meaning.

Mr. PRESIDENT: I shall be only too glad to revise my decision if there is any point. Would Sir Provash point out how amendments 75 and 76 affect the section under review?

The Hon'ble Sir PROVASH CHUNDER MITTER: The position is this: if we take the words of amendment No. 75 then it will be one-sixth of the value of the produce of the staple food crops but according to motion No. 76 it will be one-sixth of the value of the staple food crops.

Mr. PRESIDENT: Is there any difference in substance?

The Hon'ble Sir PROVASH CHUNDER MITTER: In substance I do not see much difference, but in the wording there is no doubt some difference. While one makes a sense, the other does not.

Babu JITENDRALAL BANNERJEE: I must frankly admit that so far as the principle is concerned there is no difference between 75 and 76, but I would like to submit whether the House in voting upon 75 consciously brought its mind to the question. The decision was arrived at by the default of the House and it is no decision at all. As the judgment has gone by default of the House, the House did not consciously apply its mind to it, so I think you might ask it to vote for the other amendments.

Khan Bahadur Maulvi AZIZUL HAQUE: I beg to submit this matter for your interpretation as you are the custodian of the privileges of this House. If there are two amendments, one of which consists of bad language and certain substance while the other consists of good language and substance simply because the first is voted against, how does it affect the other, when we have not voted against the substance. When bad language is provided there might be some substance but the House has to vote for it. The House recorded its vote consciously leaving out the substance. That being so, you can extend the privilege of the House to say that when it voted, it voted for the former decision.

Mr. PRESIDENT: I am sorry I cannot see eye to eye with you in this matter. You cannot blame me if the House neglected to give any explanation as to why that particular motion was thrown out. No suggestion was put forth from any section of the House to the effect that the amendment in question was badly worded or nonsensical whereas the other motion made sense and may be acceptable. I am very sorry I am unable to revise my decision. I do believe that it is unassailable.

Khan Bahadur MUHAMMAD ABDUL MOMIN: I do not want to assail your decision. Strictly speaking I do not say that any other decision can be given on this than what you have done. Since we feel a certain amount of responsibility in this matter, because while speaking on Sir Provash's motion I tried to make it clear to the House that this particular motion was linked with the other motion, namely, about the

staple food crops, my suggestion is that we should discuss both these about the proportion and the staple food crops and then the voting should take place on both of them. On that understanding we were discussing this matter amongst ourselves. We are guilty of inattention.

Mr. PRESIDENT: I am thankful to you for lucidly setting forth the real facts of the case; but, I am reluctantly compelled to tell you that I would be failing in my duty if by revising my decision I land this House into an awkward position. I should not allow the House to drift from the right course to negative a decision which it has already taken with a full sense of responsibility.

Mr. SARAT KUMAR ROY: I beg to move that in clause 14, proposed section 107D (2), sub-clause (*a*) (*iii*) be omitted.

Sir, this section provides that in fixing the acreage rate for an unit within his jurisdiction, the Collector shall have to consider certain economic questions. Evidently consideration of the economic development of the country under his survey is meant to furnish him with a clear knowledge as to whether the people of the country are in a position to pay additional levy of taxes or not; and if so, to what extent such a levy can and ought to be varied, that is, either enhanced or diminished.

But Sir, having regard to the amendments on the proposed section 107D (2) (*a*), now under discussion, I find that the gross value of all such lands within the unit area is likely to be estimated on the assumption that all such lands produce a normal crop of paddy. If this principle is adopted and accepted as sound, where is the necessity for considering the total value of all other agricultural produce in the unit. I think, this procedure will simply perplex the Collector and bring in confusion in his mind. Suppose the price of jute or that of sugarcane grown in the unit area goes high. Will that fact be a guiding factor for the Collector in his fixing the gross produce per acre of all cess-paying lands, assuming that they produce a normal crop of paddy? And if it is meant that it should, then where lies the effect of the amendment that the gross value of all cess-paying lands in the area will be estimated on the assumption that all such lands produce a normal crop of paddy and a share of it shall be accepted as the acreage rate for the area?

Sir, on a consideration of statistical figures as to what is the percentage of lands in a district which produces paddy and that of those which grow other produce, I find that the latter are very small in comparison with that of the former. Under such circumstances, Sir, I think it would serve no useful purpose to take the value of all these minor products into consideration at all, if the main object be to assess lands on the assumption that they produce a normal crop of paddy only.

In the next place, Sir, I may point out to this House that in determining the question as to whether the rents of lands held by settled *raiyats* should be enhanced or not and if varied, to what extent such variation should be made, the law provides that the rise or fall, of staple food crops, is the only guiding factor. In analogy to this, I submit, Sir, that it is highly equitable to take variations in value of only staple food crops, as the ground for altering the assessment of cesses as well. For this reason also, I think, the total value of all other agricultural produce need not be taken into consideration at all.

Mr. O. M. MARTIN: Sir, I oppose this amendment. In the first place Mr. Sarat Kumar Roy has misunderstood the amendment which it is my intention to move later. My amendment says that "provided that in areas which are under crops other than paddy, the value of gross produce may, if the local Government so directs, be estimated as if they were areas under paddy". So we still have to consider the gross produce of the district for the purpose of arriving at the acreage rate. Now in arriving at the acreage rate for particular units into which district has to be divided, the only fair thing to do is, first of all, to arrive at the rough acreage rate for the whole district. This will be done by taking the estimated assessable area and the estimated value of the gross produce, thus arriving at a rough acreage rate for the whole district. Then you come to each particular area and decide whether the acreage rate of this particular area will go above or below the estimated normal acreage rate of the whole district. I do not see any way of arriving at acreage rates for each unit unless there is first a district acreage rate from which you can work up and down. From this point of view the amendment must be opposed.

The motion was then put and lost.

Mr. PRESIDENT: Amendments Nos. 87 90 are covered by the decision already reached by the House.

Babu AMULYADHAN RAY: Sir, I beg to move formally that in clause 14, after proposed section 107D (2) (*a*) (*iii*), the following be inserted, namely:—

"(*iv*) the cost of cultivation;

(*v*) occasional failure of crops."

The Hon'ble Sir PROVASH CHUNDER MITTER: Sir, I beg to oppose this. We are allowing five-sixths so that will more than cover any such item. But apart from that the mover has misconceived the scheme of this Bill because the acreage rate has to be fixed on a certain basis and various factors have to be taken into consideration. So I oppose the motion.

The motion was put and lost.

Mr. O. M. MARTIN: Sir, I beg to move that in clause 14 the following proviso be added after clause (*a*) of sub-section (2) of proposed section 107D, namely:—

"Provided that in areas which are under crops other than paddy, the value of gross produce may, if the Local Government so directs, be estimated as if they were areas under paddy."

Sir, this proviso has been introduced to meet various objections to fixing the acreage rate on the value of the gross produce alone. Apart from other considerations it is realised that there are many cases in which for the purpose of assessment of cess it is not desirable that too great a weight should be attached to the value of crops the prices of which are not so well known and which vary to a large extent locally and the cultivation of which may have extended owing to local conditions. A very good instance of this is the abnormal extension of sugarcane cultivation. This has been a recent development and it is not known how far this will continue and whether it will be permanent. So it may be that in certain areas it will not be quite fair to take the existing area under sugarcane and to take the total crop of sugarcane for the last 5 years into consideration. It is proposed here to give a certain discretion to the Local Government to decide that certain crops should not be taken into consideration in estimating the value of the gross produce, and to substitute for the purpose of calculating the acreage rate, the value of the paddy which might have been grown on the land instead of that crop.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Sir, I am afraid we have to oppose this. The first defect in this amendment is about its wording. It says that "provided that in areas which are under crops other than paddy, the value of the gross produce may, if the Local Government so directs, be estimated as if they were areas under paddy." "Areas which are under crops other than paddy" is meaningless because in the same area it is possible to grow both paddy and other crops. Supposing there are *dofasli* lands in which several crops are grown one after the other. Does it mean that such areas will be considered as those under crops other than paddy? That is a defect of the language.

Secondly, we object to that portion where discretion is given to the Local Government to direct that in particular areas the price of paddy only will be taken into consideration and not the value of the other produce. We want that this should be a statutory provision and not a discretionary provision.

The Hon'ble Sir PROVASH CHUNDER MITTER: Sir, may I explain the position? As regards the Khan Bahadur's first point, that is a matter for drafting. If we agree about the substance then there should be no difficulty about drafting. Now, Sir, about paddy we

have definite statistical figures under the Bengal Tenancy Act; under that Act rise in the price of food crops being a factor for the increase or decrease of rent, prices have got to be published and they are published in the *Calcutta Gazette* covering different parts of the district, at different times of the year. In fact weekly statements are published. Therefore as regards paddy we have definite information. As regards jute we have fairly definite information at the port town, but even at the port town the value varies. We have to work back from the value at the port town to the value near the field; therefore an element of uncertainty crops in. As regards minor crops the element of uncertainty is still greater. Take for instance sugarcane: it depends on various factors such as good road, the value of molasses and *gur* and such other things. If there are more sugar factories, and I hope there will be, then that will be another factor. Then as regards tobacco which is grown in Rangpur and other places, it depends upon the Burma market. Then also the prices vary considerably, but even sugarcane and tobacco have not that element of uncertainty as things like brinjal and *pulbal* or certain other vegetables, or even *pan* as some hon'ble member has pointed out. In Calcutta the price may be perhaps eight annas a seer, but grown in a village away from the town the price may be different and much more. Therefore we preferred the idea of valuing on paddy both on the ground of relieving to some extent the burden of the taxpayer and also on the ground of definiteness. Now as regards the extent of the relief to the taxpayer the position is this. The total value of paddy or rice before the economic depression was about Rs. 190 crores for the whole province. That was based on definite figures. As I have said there is statistical information for paddy collected from figures all over the province. Now the total value of jute was estimated to be about Rs. 40 crores. I am not sure—and nobody can be sure—that this estimate of Rs. 40 crores is absolutey correct. There is an element of uncertainty. The total value of various agricultural produce will be about Rs. 50 or Rs. 60 crores. There the position is even more uncertain. Our idea is this. Originally the suggestion was put forward that only lands under staple food crops should be valued. We negatived that idea because there are various other crops which are valuable produce and there is no reason why they should be altogether exempted. But we were willing as a compromise to accept this. Never mind what is grown on the land, for the purpose of valuation we should take it as if all the assessable land was under paddy. On the estimates we have given you instead of Rs. 40 crores for jute we may get about Rs. 16 crores if we assume that the jute lands produce paddy. As regards various minor crops perhaps we might get something like Rs. 20 crores. The total gain to the taxpayer on this compromise would therefore be something like Rs. 54 crores. Therefore the safest course will be to assume that the total area grows paddy. The total area under paddy is

about 34,000 square miles of which 30,000 square miles are under *aman* and about 4,000 under *aus*. There is no question about taking into account double cropping as I have already explained in answer to some observations of Mr. Momin. Now there are about 3,000 square miles under jute and about 8,000 or 9,000 square miles under various minor crops. Therefore our idea is to assess the whole of the assessable area of 45, 46 or 47 thousand square miles as if they are under the paddy crop.

If it is a question of drafting that can be settled afterwards; but if the House wants to take up the question of substance, then I have to answer another point. Khan Bahadur Muhammad Abdul Momin pointed out that he did not like that discretion should be given to the Local Government. It is a discretion not to the Collector or any other authority but to the Local Government. (KHAN BAHADUR MUHAMMAD ABDUL MOMIN: It means the same thing.) It does not mean the same thing, even under the present constitution. Under the future constitution it will mean a lot more of difference. Under the future constitution when you will have a Minister responsible to this House, you can call that Minister to book: if my honourable friend, Khan Bahadur Abdul Momin, becomes a Minister, I hope his idea will not be to flout the opinion of the House.

Mr. SHANTI SHEKHARESWAR RAY: When is that constitution coming?

The Hon'ble Sir PROVASH CHUNDER MITTER: When it is destined to come: I hope it is coming soon. Therefore, as we are legislating for the future—whether that constitution will come this year, next year or two or three years later—it will mean a good deal of difference if the discretion be left to the Local Government instead of to the Collector.

(The Hon'ble Member had not finished when the Council was adjourned for 15 minutes for prayer.)

(After adjournment.)

The Hon'ble Sir PROVASH CHUNDER MITTER: I was dealing with this amendment when the House adjourned. I was going to explain our position and the substance of what we are willing to concede, provided a large section of the House accepts that concession as a compromise. What we are willing to concede is that all the assessable area should be assessed as if it grew paddy and nothing else; but we must have a discretion.

Mr. PRESIDENT: I hope you are not going beyond the amendment.

The Hon'ble Sir PROVASH CHUNDER MITTER: No, I am not: I am simply explaining the position. We want to retain that discretion in the Local Government in the form in which Mr. Martin has put it. If there is any drafting suggestion for improving it, we are perfectly willing to consider it, provided we agree to the substance. We insist on putting it in that form keeping that discretion in the Local Government for more than one reason. We do not want to tie the hands of the future Government. We do not want to tie the hands of the Government which the new constitution will set up. But if you are apprehensive, your remedy will lie in your own hands under the new constitution. So far as this Government is concerned, we are quite willing to value as if it was paddy. Beyond that we are not prepared to go. On principle we object to this 20 per cent. limitation. We think it is a wrong decision of the Select Committee, it is a wrong recommendation of this Council; but if the Council take the responsibility—we are dealing with an elective majority—if the Council think that they are protecting their interests in that way in spite of our advice, then we are willing to defer to that recommendation after we have pointed out that it is a mistake. On that point we are willing to accept the compromise so long as it is clearly understood that it is not the responsibility of the Government but the responsibility of the Council. If the Council are willing to accept the offer of compromise—it is nothing but a compromise, namely, that we shall not insist on the deletion of section 107D(2)(*b*). We understand that both Hindu and Muhammadan members want to retain 107D(2)(*b*). We understand further that if anything goes wrong the Council will take full responsibility. On that understanding we are willing to accept the retention of section 107D(2)(*b*) as a compromise. But this is subject to the further conditions, namely, that the paddy basis will be subject to the limitation suggested. But even the fact that a large majority wants the inclusion of section 107D(2)(*b*) will not make such inclusion acceptable to Government unless the suggested compromise is also acceptable to that majority. As I have explained we are opposed to section 107D(2)(*b*) on principle but we can only accept it in a spirit of compromise. If that spirit of compromise is not responded to by the Council then we shall oppose 107D(2)(*b*) and place the Bill before the Council according to our own light.

We shall then advise the Council to accept our view. If the Council rejects that view, then however much it may be a matter of regret, we may have to withdraw the Bill. Pray do not consider it as a threat. It is anything but a threat. With every deference to the opinion of those members of the House like my esteemed friend, Khan Bahadur Abdul Momin, who had an opportunity of studying this problem, I think I can claim that Government and its officers

had far greater opportunities of collating materials, preparing statistics and finding out what the effect of the recommendation of the Council will be, and if after considering all these materials we come to the conclusion that the Bill will not do good to the country, then we cannot but withdraw the Bill. We shall be failing in our duty if we do not. It is not a threat—it is anything but a threat. Those who know me know it very well that I am always anxious to carry the House with me. Take the Cess Bill for instance. We have all along from the beginning taken the House into our confidence. We brought the question before a representative conference. In that conference every section of the House was represented. We then fully discussed the principles of the Bill in the House. At the next stage we took the opinion of the House in the Select Committee, and it was a representative Select Committee at that. Therefore, what I want to make clear is that we are willing to accept the recommendations of the Select Committee in respect of clause 107D(2)(*b*), if the other proposals we are making go through as a matter of compromise. Else, I must press for my amendments. Sir, having made the position of Government clear, I leave this matter to the discretion of the House.

With your permission, Sir, I have another suggestion to make to the House. The question as to whether there should be a limit of 20 per cent. is a matter of substance and has a good deal bearing on the question as to whether assessment should be made on all kinds of gross produce, because some of my esteemed friends on the benches opposite and on the right said that if they yielded on the question of the levy of cess on all kinds of produce, then it would result in a heavy increase of cess. But if the 20 *per cent.* limit be there, there cannot be any great increase in cess. If so *per cent.* increase be agreed to, then they should be satisfied that there cannot be heavy increase of cess even if the assessment be on all produce. So, the question resolves itself into one of whether the assessment should be on the basis of paddy or on other kinds of produce also. As I have explained earlier, if the assessment is on the basis of paddy the total assessment would be lower. Therefore, I submit, Sir, it is useful to discuss these things together: in the meantime the discussion may be postponed for a short time.

Mr. PRESIDENT: You mean with regard to Mr. Martin's amendment?

The Hon'ble Sir PROVASH CHUNDER MITTER: Yes, Sir. I am suggesting this course because Mr. Momin and some other members of this House suggested to me during the adjournment that

they wanted to submit a fresh amendment to Mr. Martin's amendment to the House. I am quite prepared to postpone the discussion, say for half an hour or so, so that those members may prepare a draft. I am also prepared to consider the draft provided that after discussion we might agree to go on with that draft.

Dr. NARESH CHANDRA SEN GUPTA: Sir, is it not really a motion for recommittal to the Select Committee through the back door?

Mr. PRESIDENT: Order, order. Is there any response to Sir Provash's appeal?

(The majority of the members present signified their consent.)

Khan Bahadur MUHAMMAD ABDUL MOMIN: Sir, I am very grateful for Sir Provash's attempt to get us out of the muddle into which we had fallen. But before I make my humble submission about the amendment which we have been discussing, may I with your permission most respectfully beg to protest against some of the remarks which the Hon'ble Member has made as regards the attitude of Government and our attitude in regard to this Bill? I must make it clear to the Hon'ble Member that like Government, who are anxious on the one hand to pass this Bill, we are equally anxious to see this Bill placed on the Statute Book.

The Hon'ble Sir PROVASH CHUNDER MITTER: Sir, may I rise on a point of personal explanation? I have been misunderstood by the Khan Bahadur. I never wanted to ascribe any motive to any one in this House. If in the heat of debate I have said anything which has wounded the feelings of any member or members, I am extremely sorry for it. So far as I recollect I informed you, Sir, that a short notice amendment was being drafted by some members, and that this amendment was expected to clear up the point at issue.

Mr. PRESIDENT: I suppose it would be with regard to amendment No. 70 and Mr. Martin's amendment No. 92A.

The Hon'ble Sir PROVASH CHUNDER MITTER: Sir, with your permission the consideration of this amendment may also be postponed for the present.

(The consideration of the amendment was postponed.)

Maulvi Syed MAJID BAKSH: Sir, I beg to move that in clause 14, after the proposed section 107D(2)(*b*), the following be inserted, namely:—

"(*c*) a rate which when multiplied by the area will increase the annual value of the land to more than double the amount of rent payable for the land."

Sir, if I understood aright those gentlemen who objected to the consideration of the Bill on this side of the House objected on the ground that if the present basis is accepted, the cess demand would go up by leaps and bounds, *i.e.*, the cess demand will go up in those areas where the rate of rent per acre is low. So, I have introduced this safeguard. In this connection there is already a safeguard in the shape of sub-section (2)(*b*), which mentions an increase of 20 *per cent*. I wish to introduce a further safeguard, *viz.*, that relief to tenants was undoubtedly in the minds of the framers of the rate which when multiplied by the area will increase the annual value of the land to more than double the amount of rent payable for the land. Considering the calculations put forward before this House yesterday, I want to show that when this safeguard is inserted in the clause it will not increase the annual value of the land by more than double. At present if a tenant pays a rent of Rs. 2 per *bigha*, he pays a cess of 4 pice; then if he pays 8 annas his cess is one pice. If the amount of valuation is not more than double, he will pay a rent of Rs. 2 and his valuation will be Rs. 4 and he will pay a cess of 2 pice. In the Act which is now in force it is provided that the annual valuation should be as far as possible equal to the rent payable by the *raiyat*. In this case also the rent payable will be in conformity with the present Act, which is equal to the rent payable by the *raiyat*. In this view of the case, Sir, I submit that if this amendment is carried the tenant will have relief which he needs so very badly; it will also provide a safeguard of considerable importance against the indiscriminate raising of taxes. This question of Bill. I think that by introducing this safeguard in the Act the tenants will get considerable relief.

With these few words, Sir, I beg to commend my motion to the acceptance of the House.

Mr. O. M. MARTIN: Sir, I rise to oppose the amendment. In the first place, Sir, the wording is so bad that we cannot accept it. It is impossible to understand the import of this amendment, and I had great difficulty after getting notice of it in finding out what the intention of the mover was. What is "the rate payable for the land," and how can the "annual value of the land," be increased? After his speech I now understand, Sir, that what he wishes is to limit the acreage rate in a particular holding. His suggested amendment, I

am afraid, would not have this effect; and if it did, it would not be in accordance with the principles of the Bill as approved by the Select Committee.

Sir, I oppose the amendment.

The motion was put and lost.

Mr. SARAT KUMAR ROY: I beg to move that in clause 14, for proposed section 107E (*1*) (*a*) and (*b*), including the proviso, the following be substituted, namely:—

"(*a*) prepare a statement of the classes of lands in the district or part of a district which shall be cess-free and shall include therein any class of lands consisting entirely of forest jungle, road, path, river, *khal*, graveyard or cremation ground, and such other classes of lands as he may think fit.

(*b*) prepare, in respect of each village, in such form as may be prescribed, a list of lands other than lands belonging to any class specified in the statement prepared under clause (*a*), which shall be cess-free:"

Sir, there may be various circumstances justifying the exclusion of particular classes of lands from liability of cesses. As for example, some lands may be physically so situated that cultivation of any crop there might involve prohibitive expenditure. Under such circumstances, it cannot be said that, strictly speaking, they consist entirely of unculturable waste. But these ought to be made cess-free, because their holders cannot enjoy benefit out of such lands, through no fault on their part.

The result of the amendment made by the Select Committee is to vest the Collector with jurisdiction to exclude lands from assessment, only on the ground that they consist entirely of unculturable waste. If such be the law, the Collector shall not be able to exclude the lands I have just cited, even though it may be found proper and equitable to exclude them.

Sir, the wording of the proposed section 107E (*1*), (*a*) and (*b*) is sufficiently wide enough to give ample discretionary powers to the Collector to do justice on all sides, and I do not find any reason to limit or curtail his discretions in any way. It does not stand to reason that he will be inclined to exercise his discretion in such a way as to affect public revenues. Then why diminish his discretionary powers? You have the words "as he may think fit" after the words "and such other classes of lands" at the close of paragraph (*a*) of section 107E (*1*).

Do they not amply enlarge the Collector's discretion in the matter of including other classes of lands in the list of cess-free lands than those enumerated in the section? If that be so, I think, Sir, the amendment proposed by the Select Committee goes too far to restrict the Collector's discretion and such restrictions are not only unnecessary but unjustifiable.

And then, Sir, the effect of the sub-clauses (*a*) and (*b*) of this section, as far as I can understand, has been practically negatived by the proviso that no land can be made cess-free unless the Collectors find it entirely to consist of unculturable waste. Sir, it may be that a small fraction of the area is culturable and the rest unculturable, and that this small area can be cultivated on high investment of funds, prohibitive from an economic point of view. Sir, the investment required would certainly deter him from enjoying any profit from the area and yet, he will have to pay cess for the entire area. I do not think it is equitable to ask him to pay any cesses at all.

Hence, the amendment proposed by the Select Committee seems to me to be very inequitable and I move that the original clauses of this Bill be restored.

Mr. O. M. MARTIN: Sir, I rise to oppose this amendment. There is no reason, it seems to me, why this part of the clause as framed by the Select Committee should not be accepted. The contention of Mr. Roy is that sufficient discretion has not been given to the Collector because of this proviso, which provides that "he shall not include any land in the list except on the ground that it is unculturable waste." I think there is no other reasonable ground for including any land in the list. The fact that there a scratch crop had at sometime been taken out of the land would not justify the Collector in assessing it, if as a matter of fact it was nothing but unculturable waste. But if on the other hand the land had been previously cultivated and was obviously fit for bearing a crop, the Collector would not make it cess-free. The Collector cannot possibly make inquiries into every plot of land in order to find out exactly what sort of crop each plot of land can produce, I am afraid I am unable to see any substance in the contention of Mr. Roy that the clause as framed does not give sufficient discretion to the Colletcor. I oppose the amendment.

The motion was put and lost.

Mr. SARAT KUMAR ROY: Sir, I beg your permission to move both the amendments standing in my name, *i.e.*, Nos. 122 and 126, together.

Mr. PRESIDENT: Yes.

Mr. SARAT KUMAR ROY: I beg to move that in clause 14, in proposed section 107E (*1*) (*a*), in line 4, the word "entirely" occurring after the word "consisting" be omitted; and that in clause 14, in proposed section 107E (*1*) (*a*), in lines 6 to 8, for the words "if he consider it to consist entirely of unculturable waste, and" the words "if it consists of unculturable waste, and" be substituted.

Sir, from what I have already said in connection with my preceding motion, I hope I have made it clear that there may be many instances where particular plots of lands consisting of partly unculturable land and partly culturable land and even then, although physically such portion appears to be culturable, cultivation of the entire areas would then be practically impossible from an economic point of view. Under such circumstances, it would be hard upon the holders of such lands if cess is levied thereon on some theoretical assumption that some profits may arise out of it.

I would therefore earnestly suggest that the words "entirely" be deleted and the matter be left to the discretion of the Collector.

Mr. F. A. SACHSE: I think it does not really matter whether the word "entirely" is left out or not, because no Collector will have so little common sense as to assess lands which are really used for graveyards or cremation ground or a road because a little bit of the said road might be used for another purpose and could not be described as unculturable waste. The assessment of cess is going to be at the maximum annas 6 per acre and all those plots of land which consist of graveyard, cremation ground, etc., are probably far less than an acre. No Collector will take the trouble of finding out whether a little bit of that small plot is properly described as unculturable waste or not. It, therefore, makes little difference whether the words proposed for omission remain or not; they do not mean that because one part of the land or an inconsiderable part of it is not used for the particular purpose mentioned in this section, cess may be assessed on the whole.

Mr. O. M. MARTIN: I may be allowed to add in support of Mr. Sachse that Government wish to support the Bill as passed by the Select Committee, unless there is some real necessity for alteration. The proposed amendment seems to be unnecessary but it is not a matter of great importance.

The motion was put and lost.

Maulvi ABUL KASEM: On a point of order, Sir. Important sections of this Bill are being discussed and amendments are being moved but the Hon'ble Member in charge is not here.

Mr. PRESIDENT: He spoke to me when he left the House, but, why should his absence upset you—Mr. Martin is here, Mr. Sachse is here.

Maulvi ABUL KASEM: I have an appeal to make. The Mayor has called a public meeting to-day at 5-30 in order that members of this House may attend that meeting. I think the Council should be adjourned. I appeal to you.

Mr. PRESIDENT: Those members who are willing to attend the meeting may do so.

Maulvi ABUL QUASEM: Sir, I beg to move that in clause 14, in proposed section 107E(*1*) (*a*), line 5, for the words "or cremation ground" the words "cremation ground, mosque, temple, or any other place of public worship" be substituted.

Government have already accepted my amendment No. 62 and this amendment is the same as that one, and I do not think that Government have any objection to this. I have dropped the words "or pilgrimage."

Mr. O. M. MARTIN: Government has no objection to accepting this altered amendment as it is a consequential amendment on No. 62.

The motion was then put and agreed to.

Mr. SARAT KUMAR ROY: Sir, I beg to move that in clause 14, the proviso to the proposed section 107E(*1*) be omitted.

In connection with item No. 121, I have already said that there is no reasonable ground for apprehending that public revenues will be affected by enlarging the Collector's discretion. The Collector is there to do justice to all parties before him and I am confident that he will never allow public revenues to suffer. But if you keep this proviso he will not be in a position to do justice to a case even though he finds it equitable, simply on the technical ground that none but unculturable waste lands ought to be excluded. Presumably there may be strong grounds for his making exception in certain cases and I do not think it proper to limit his discretionary powers in the matter.

Babu KHETTER MOHAN RAY: Sir, I beg to support the amendment for the simple reason that by adding this proviso to the sub-clause the entire clause becomes inconsistent. It is in this way. Section 107E(*1*) provides that the Collector shall prepare a statement of classes of lands which shall be cess-free. Sub-clause (*a*) says that jungle, road, path, river, *khal*, graveyard or cremation ground shall be cess-free. Then in that clause there is a provision that the Collector may include in that statement lands which are unculturable waste. The Collector is empowered by sub-clause (*b*) to include lands other than waste land, that

is to say other than unculturable waste land, road, jungle, etc., mentioned in sub-clause (*a*) which he considers should be cess-free. Now I lay particular emphasis on the latter portion of sub-clause (*a*) which empowers the Collector to include unculturable waste land, in order to make my meaning clear. But the proviso to sub-clause (*1*) (*b*) specially enjoins the Collector not to include lands which are unculturable waste. You give the Collector power to include other lands than unculturable waste, etc., and at the same time you direct him not to include any lands which are not unculturable waste. You give the power to the Collector with one hand and take it away with the other hand. This inconsistency is apparent on the face of it. Sub-clause (*1*) (*b*) gives the Collector power to include lands other than those mentioned in (*1*) (*a*) which in the opinion of the Collector shall be cess-free. This provision is well considered. For there may be other lands which though not unculturable waste should be cess-free. It is for this reason that sub-clause (*1*) (*b*) was inserted in the original Bill and is retained in the amended Bill with slight modification by the Select Committee. I can give some instances of this class of lands, such as grazing grounds, race course, playgrounds, etc. In this class of lands the villagers have an indefeasible right, which they have acquired by prescription, custom or user from time immemorial to use the lands as such. These lands are not unculturable waste and the landlords have no right to bring them under cultivation by himself or by letting it out to tenants. No cultivator will take lease of such lands for cultivation. No profits are derived from the lands by the *zemindars* or tenants whoever may be in the judicial possession of the same. This and other class of lands, though not unculturable waste, should be cess-free as they yield no profits to the owners. The owners have no control over the causes which prevent them from getting any profits. I, therefore, think the proviso added by the Select Committee should be deleted and the clause (*1*) should be on the lines as in the original Bill before amendment.

With these words I support the amendment.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I beg to oppose this motion. My friend Babu Khetter Mohan Ray has assumed that in clause (*a*) certain lands have been included which are not unculturable waste. Does he consider jungle or road or path or river to be culturable, or a temple or mosque or graveyard to be culturable? A proper reading of the clause will show that these are illustrations of unculturable lands and in addition to that the Collector is given power to include other lands; therefore there is no conflict between the clause and the proviso. I think it might be more convenient if a definition of "unculturable waste" were added, but certainly a land which is not culturable is an unculturable waste that is to say it cannot be brought under cultivation. If a land is such that the public have a right to claim that it

shall not be brought under cultivation, it is certainly unculturable. There is no conceivable class of land which is not an unculturable waste and yet not capable of cultivation. The meaning of the term "unculturable waste" in this section is made abundantly clear by the illustrations which have been given of it. Lands of this character which are not capable of being brought under cultivation for whatsoever reason would be an unculturable waste. But on the other hand if the proviso is deleted, the door will be open to the Collector to include in the statement other lands even though they are culturable and profitable. The district boards will be greatly affected, and I wonder if Babu Khetter Mohan Ray really wants the district boards to be left at the mercy of the sweet will of the Collectors. The meaning of the proviso is perfectly clear and I think it ought to remain.

Mr. O. M. MARTIN: Sir, I oppose this amendment. Section 107E as now drafted seems to me to be perfectly clear: without this proviso it cannot be clear. According to this section the Collector has got to prepare two lists: (1) a statement of class of lands which shall be cess-free including jungle, road, path, river, *khal*, etc., and (2) a list of lands not falling under sub-clause (*a*) which shall be cess-free. The proviso says that the only ground for including a land in the second list will be that it is unculturable waste. The knocking out of this proviso would give the Collector scope for including all sorts of land which were really revenue producing and which really should be assessed. The whole section was very carefully considered in the Select Committee, and I submit to the House that it is quite satisfactory as it stands and there is no reason for amending it.

The motion was then put and lost.

Maulvi ABUL QUASEM: I beg to move that in clause 14, to proposed section 107H (*1*) in the last line after the word "rates" the words "after considering the views of the district board" be added.

Sir, Government in the proposed section 107H (*1*) has provided that, before determining for any district or part of a district the rates at which the road cess and the public works cess respectively shall be levied for each year on each rupee of the annual value of cess-paying land, the views of the district boards will be considered. Government has also taken power to vary the rates from time to time. When the rates will be varied there is no provision in this Bill that the district boards' views will be considered. It is a matter in which the income of the district boards is at stake and in which they are most seriously and intimately concerned and it is essential, therefore, that their views should be considered by the Government before any variation is decided on and effected. Sir, one very important thing I should like to bring to the notice of the House. The law at present gives the district boards

the right to fix the rate at which the road cess is to be levied. Under the new legislation this particular and valuable power, which the district boards have enjoyed from the year 1885, is being taken away; now the rate or rates will be determined by Government and the district boards will only be asked to express their views; so they are going to be deprived of their long-enjoyed power. It has been thought just and equitable that before determining the rates the views of district boards should be considered. I submit, Sir, that when it is proposed to vary the rates after they are determined it is equally just and equitable that the district boards should be given an opportunity to express their opinion, because the effect of the variation may well be a reduction of the income of the district boards and therefore may seriously affect their programmes and commitments. I only ask Government to be fair and logical and that when they propose to vary the rates from time to time, they should invariably consult the district boards. With these words, I commend the motion to the acceptance of the House.

Mr. O. M. MARTIN: Sir, I oppose this amendment as unnecessary. It is quite clear from section 107H that the Local Government have to consult the district board.

The motion was put and agreed to.

Maulvi ABUL QUASEM: Sir, I beg to move that in clause 14, in proposed section 107-I (*1*) (*c*), in lines 2 to 5, the sentence "The particulars contained in such statements shall be presumed to be correct until the contrary is proved" be numbered as clause (*cc*).

Sir, in moving this amendment I should frankly admit that I may be under a misapprehension. This particular sentence, which I want to detach and form into a separate paragraph, as it stands, only applies to sub-clause (*c*). I should like this sentence to refer to all the three sub-clauses (*a*), (*b*) and (*c*). Why should the presumption of correctness apply to the statements of annual value as referred to in sub-clause (*c*) alone and not also to the valuation rolls as referred to in sub-clauses (*a*) and (*b*)? I am at a loss to understand what the intention of Government is. If I am wrong, I hope I shall be corrected.

Mr. O. M. MARTIN: Sir, the object of this amendment is not very clear from the way in which it has been framed. If the intention is to make the presumption of correctness apply to all statements of the annual value of lands and valuation rolls mentioned in section 107-I, the drafting of the amendment requires to be changed. In any case, I must oppose the amendment as unnecessary.

The motion was put and lost.

MAULVI ABUL QUASEM: Sir, I beg to move that in clause 14, in proposed section 107K in line 3, after the word "tenures" the words "or other interests" be inserted.

The proposed section 107K provides for the supply of copies of or extracts from the valuation roll prepared under section 107-I to holders of estates or tenures or the owners, holders or occupiers of rent-free interests in such manner and on payment of such fees as may be prescribed. There are, besides holders of estates or tenures, *raiyats* including under-*raiyats*—a far more numerous and no less important body of cess-paying people. If this class of people want copies of or extracts from the valuation roll on payment of prescribed fees, no provision is made for supply of copies to them. I do think that if holders of estates or tenures are to receive copies of or extracts from the valuation roll, the holders of other interests should also be granted the same privilege on the same conditions. That is why I move this amendment.

Rai Bahadur MAHENDRA NATH GUPTA: I would oppose this amendment. It raises though indirectly a very large question, namely, the question of preparing a valuation roll for every *raiyat* and under-*raiyat*. That is a thing which is not done under the present system and it is not necessary to do it under the proposed system. Whatever statement is prepared, a copy of it can be had on application to the Collector. If the amendment is accepted and it is decided to give a copy of valuation roll to all, it would be necessary to prepare a valuation roll for every *raiyat* and under-*raiyat* even in the case of cess revaluation under Chapter VIIA. It should be remembered that in a proceeding under Chapter VIIA the Collector will work on the record-of-rights. The record-of-rights is not brought up to date by any revision or reattestation or verification. The Collector will not know the up-to-date names of the tenants and sub-tenants. One merit of the proposed system is that it is not necessary to know these and it is not necessary even to prepare a valuation roll. But there may be certain statements which the Collector will prepare and any person interested, if he wants a copy from these, may apply for it and get it. He does not need a valuation roll. All that he needs know for his cess, is the area of the land he holds and the plots within his area which are assessable. These are known to him; he knows his land and he knows his rent. The amendment, if accepted, will not only complicate the procedure but will increase the cost immensely. The cost involved will be quite incommensurate with any advantage to be derived. In this view, I oppose the amendment.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I am surprised that it is thought desirable for Government to oppose a motion like this. I think the Rai Bahadur is under a misapprehension. It is not at all

necessary that valuation roll for every tenant and sub-tenant should be prepared. All that section 107K as proposed to be amended by Maulvi Abul Quasem contemplates is that when the valuation roll is actually prepared, that ought to be an open book not only for the use of the *zemindars* and tenure-holders but for the tenants and sub-tenants as well. I do not see any reason why certain provisions of the Criminal Procedure Code should be applicable to civil law in this country and should also be applicable to this section. After all it is not desired that under section 107-I the Collector should prepare a valuation roll for everybody. If the valuation roll is prepared, a copy ought to be available to owners, holders or occupiers of rent-free interests as well as other interests. And surely it is an elementary principle in civil law that a paper which affects the civil rights of the people ought to be available to anybody who demands it. Sir, I do not see why Government should press a motion of this character. It would only complicate matters unless it is desired that unnecessary complications should be brought in. I hope Government will reconsider this matter, and make the papers available not only to the landlords but also to the tenure-holders.

The Hon'ble Sir PROVASH CHUNDER MITTER: Sir, it does not really matter. This amendment is based on practically a misapprehension. I have no objection to accepting it in spite of the Rai Bahadur's arguments.

The motion was then put and carried.

Babu KHETTER MOHAN RAY: I beg to move that in clause 14, in proposed section 107L in line 1, after the word "correct" the words "any accidental slip or mathematical error or" be inserted.

Sir, my reason is this, *viz.*, that *bona-fide* mistakes, as provided for in the Bill, cover many things. Therefore, I propose that the clause should be so drafted as to make *bona-fide* errors, etc., definable. The Collector has power to correct *bona-fide* mistakes, errors, etc. This will show the nature of the *bona-fide* mistakes, for any *bona-fide* mistake may pass on to the very root of the assessment made by the Collector. That is the reason why I am so very particular in insisting that *bona-fide* mistakes should be defined. I therefore suggest that such a definition should be inserted in the clause. With these few words, Sir, I move my amendment.

Mr. O. M. MARTIN: Sir, Government accept the principle of the amendment, although the wording is not very happy. We would prefer to say "or any clerical mistake" in place of "*bona-fide* mistakes".

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, we on this side of the House have not been able to understand the change proposed by Mr. Martin. *Bona-fide* mistakes are undoubtedly mistakes committed *bona-fide*, and I do not see any point why Babu Khetter Mohan Ray's amendment, as it stands, should not be accepted.

Mr. O. M. MARTIN: Sir, I am prepared to change it to "*bona-fide* clerical mistake".

Babu KHETTER MOHAN RAY: Sir, I accept the wording proposed by Mr. Martin.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I must oppose it because the real object of Khetter Babu's amendment will be frustrated if the wording is changed in this manner. *Bona-fide* mistakes cover all kinds of mistakes made in good faith, but if you put in "clerical mistakes" in place of the wording of Khetter Babu, you will be restricting the powers of the Collector under the present Bill as it stands. After all, the expression "*bona-fide* mistakes" is all-embracing and covers all kinds of mistakes.

The Hon'ble Sir PROVASH CHUNDER MITTER: Sir, so far as I am concerned I understand the position as this. After Mr. Martin had moved his amendment we have been discussing it. We have no particular objection to the amendment. Since Babu Khetter Mohan Ray has already accepted the amendment of Mr. Martin, I think the motion should be put before the House for acceptance or rejection.

Mr. PRESIDENT: Yes, that is the position, and I shall now put the amendment to the House.

The motion that in clause 14 in proposed section 107L, in line 2, after the word "*bona-fide*" the word "clerical" be inserted was then put and agreed.

Mr. W. H. THOMPSON: Sir, about an hour ago you postponed the consideration of amendment No. 92A on the understanding that some of us would try to draft a fresh short-notice amendment which all parties would be able to accept. The Hon'ble Sir Provash Chunder Mitter, Khan Bahadur M. A. Momin, the Raja Bahadur of Nashipur and myself have been in labour for half an hour and have given birth to the following. The new amendment runs as follows:—

"That in clause 14 for the first five lines of clause (*a*) of sub-section (*2*) of proposed section 107D, the following be substituted, namely:—

'One-fifth of the value of the gross produce per acre of all cess-paying lands in the area for which the rate is being determined estimated on the assumption that the land produces a normal crop of paddy:

Provided that in respect of any district or part of a district the local Government may, at its discretion, direct that the estimate shall be made without such assumption.

In making the estimate the following matters shall be taken into account.' "

And then the section proceeds with (*i*), (*ii*) and (*iii*) as before.

Will you, Sir, be good enough to permit me to move this as an amendment to the clause we were considering.

Raja Bahadur BHUPENDRA NARAYAN SINHA, of Nashipur: Sir, I rise to support the motion which Mr. Thompson has moved just now. It is practically the same motion which I moved and which I withdrew on an assurance given by the Hon'ble Member-in-charge of the Bill. The main point under consideration is that in place of "gross produce" the word "paddy" be substituted. There is another item which has been modified, *e.g.*, that "one-fifth" has been substituted in place of "one-sixth". Thirdly, one clause has been added to give a discretionary power to Government in estimating the acreage value of different kinds of produce. In some districts jute or sugarcane has been grown; in others tobacco has been cultivated. It will be unfair to standardise paddy for all times to come. There may be new crops of higher value. So this clause would be a safeguard for the district board. The income of the district boards should be taken into consideration by us. We must adopt a course which will not hamper the income of the district boards unjustly for all times to come. On this ground I, on behalf of the members of this side of the House, support this motion.

The Hon'ble Sir PROVASH CHUNDER MITTER: Sir, in view of the fact that Khan Bahadur M. A. Momin, the Raja Bahadur of Nashipur, and Mr. Thompson have agreed on this contentious issue, Government accept the amendment.

The motion was put and agreed to.

The Hon'ble Sir PROVASH CHUNDER MITTER: I beg to move that in clause 14, clause (*b*) of sub-section (*2*) of proposed section 107D be omitted.

I have explained the position of Government. I formally move it but in view of the amendment that has been accepted I do not want to press it.

The motion was put and lost.

Babu KISHORI MOHAN CHAUDHURI: I beg to move that in clause 14, for proposed section 107D (2) (*b*) the following be substituted, namely:—

"(*b*) the total cess demand for every holding by more than twenty per centum."

Sir, my objection is simply this. In the Bill it is proposed that 20 per cent. should be taken for the whole district. In that case there may be unlimited increase in individual cesses. My object is that for every holding not more than 20 per cent. increase should be the criterion, otherwise many cultivating classes will suffer. If you take the whole district into consideration then individual cases will not be considered and there may be difficulties and the result will be that in many cases it would be very hard on the cultivating classes especially those who have valuable crops to grow. I therefore propose that it should be for every holding and not for every district.

The Hon'ble Sir PROVASH CHUNDER MITTER: Perhaps Babu Kishori Mohan Chaudhuri is under a misapprehension. As the House has accepted 107D (2) (*b*) it means that that will be the acreage rate, that is, an enhancement of 20 per cent. under the acreage rate. This section 107M would work with upwards and downwards. Therefore every one will get the benefit of that. I cannot accept the amendment in this form. His object is already provided for by what the House has accepted. By accepting the amendment in this form the Bill will become complicated. I need not elaborate the reasons. It is quite patent, that if on the value of the produce basis the acreage rate is Rs. 12-8 and on the limitation 20 per cent. the acreage rate is reduced to Rs. 10, then if Rs. 10 be taken to be acreage rate of the land, and that Rs. 10 being the acreage rate of the land the man in the lowest rung (I am again explaining) if he pays Rs. 8 as rent then he will have to pay Rs. 10 *minus* 8, that is Rs. 2; he will not have to pay Rs. 12-8 *minus* Rs. 8, that is Rs. 4-8. Therefore Kishori Babu's object is met by what the House has already done. I must oppose the amendment as it will introduce complications.

The motion was put and lost.

Babu AMULYADHAN RAY: I beg to move that in clause 14, after proposed section 107D (2) (*b*), the following be inserted, namely:—

"Provided that such rate shall not exceed a rate likely to increase the total cess demand of the district where the revaluation has been made after the record-of-rights".

The mover on being pressed by the House asked for leave to withdraw the motion.

The motion was then, by leave of the House, withdrawn.

Maulvi ABUL QUASEM: I beg to move that in clause 14, in proposed section 107L, the following proviso be added, namely:—

"Provided that no such correction shall be made if any appeal affecting such mistake or omission has been filed under section 107G or until reasonable notice has been given to the parties concerned to appear and be heard in the matter."

Sir, I may at once tell the House that the language of the proviso which I want to be inserted in this clause is taken verbatim from section 115B of the Bengal Tenancy Act. There also a similar case is provided for. I should like to read that section as a whole:

"Any Revenue Officer specially empowered by the Local Government in this behalf may, on application or of his own motion, within two years from the date of the certificate of the final publication of the record-of-rights under sub-section (2) of section 103A, correct any entry in such record-of-rights which he is satisfied has been made owing to a *bona-fide* mistake:

"Provided that no such correction shall be made if an appeal affecting such entry has been filed under section 115C or until reasonable notice has been given to the parties concerned to appear and be heard in the matter."

By the proposed section 107L the Collector is being empowered to correct at any time any *bona-fide* mistake in or omission from the valuation roll. The term "*bona-fide* mistake" is a very comprehensive term; it may cover very serious (serious, I say, from the point of view of the cess-paying parties) mistakes. Therefore, it is only reasonable that these mistakes should not be corrected behind the back of the parties concerned. It is only reasonable and proper that no such correction should be made until a decision has been arrived at in the appeal, which is pending or until reasonable notice has been given to the parties concerned. The principle of this amendment is a part of the provisions of the Bengal Tenancy Act, in connection with a similar contingency, and I do not see any reason why it should not be embodied in the proposed section 107L. Therefore, I commend my motion to the acceptance of the House.

Mr. O. M. MARTIN: I would oppose this amendment. We were prepared to accept the first part of this amendment before amendment 139 had been accepted, but not now. Instead of "*bona-fide* mistake,"

it is now "*bona-fide* clerical mistake." There is no reason why a *bona-fide* clerical mistake should not be corrected at any stage of the proceedings. If notices have to be served for such corrections, it will be harassing to the parties and a nuisance to everybody.

Maulvi ABUL QUASEM: In view of the explanation given by Mr. Martin I beg leave to withdraw my amendment.

The motion was then by leave of the Council withdrawn.

Maulvi TAMIZUDDIN KHAN: Sir, I beg to move that in clause 14, after proposed section 107M (2), the following be inserted, namely:—

"Provided that in no case shall a cultivating *raiyat* be required to pay more than sixty *per centum* of the total cess calculated on the annual value of the cess-paying lands comprised in his holding at the rate or rates which may have been determined for the road and public works cess for the year as in this chapter provided."

This is my last stand practically speaking on behalf of the cultivating *raiyat*. I tried to show yesterday, and I shall also reiterate to-day, that under the proposed scheme of this Bill the cess of the cultivating *raiyat* will be tremendously increased. I shall again cite the example which I cited yesterday. If in a *zamindary* of 4 acres the land revenue is Rs. 3 and the *raiyat's* rent is Rs. 10, in that case under the present law the total cess is 10½ annas, the *zamindar* paying 4½ annas and the *raiyat* 6 annas. But under the proposed system having the acreage rate at Rs. 9, which is a very reasonable figure, the cess to be paid by the *raiyat* will be annas 12, that is exactly double of what he is now paying. Some of my friends made an attempt to show that the cess will not be actually increased in those cases where the rent is high. Sir, I submit, that if we want to arrive at a correct conclusion, then we must take the average. If we take the average we shall find that the average rate of rent of a cultivating *raiyat* or an occupancy *raiyat* is Rs. 3. Taking that average, under the new system, the cess payable by the cultivating *raiyat* will be double of what he is now paying. Where the acreage rate is Rs. 9 or even Rs. 8 or Rs. 7 the cess payable by the cultivating *raiyat* will be tremendously increased. In this Bill there is no safeguard against the cultivating *raiyats'* cess being increased, if the average acreage rate is Rs. 10, and it may be easily Rs. 10 under the amendment which we have accepted just now. To-day we have accepted that one-fifth of the gross produce will be taken as the average cess. In that case Rs. 10 will be the acreage rate and that will not be an unlikely figure. Under the circumstances I would like to draw the attention of the House to section 41 of the Cess Act. That section states the relative liability of the landlord, tenure-holder and the cultivating

raiyat. Sub-section (*3*) of section 41 says "every cultivating *raiyat* shall pay to the person to whom his rent is payable one-half of the said road cess and public works cess calculated at the said rate or rates respectively upon the rent payable by him, or upon the annual value ascertained under the provisions of section 24 or 25 of the land held by him." The present scheme is that he will have to pay one-half but as the Government and the House are at present minded, they are not going to accept that the cultivating *raiyat* should pay only 50 per cent. Therefore I would like to put some limit, and I want to put that limit up to 60 per cent. Under the present scheme he cannot be compelled to pay more than 50 per cent. but I suggest that he should not be compelled to pay more than 60 per cent. Those members who are of the opinion that under the new scheme the cess of the cultivators will not be tremendously increased, will not have any difficulty in supporting my amendment. My amendment says that the *raiyat* cannot be made to pay more than 60 per cent., whereas under the present system he can be made to pay 50 per cent. Therefore I want to test the sincerity of Government and those members, and I submit that there should be no difficulty on the part of the other members of this House to accept my amendment. The view of some of them is that under the new system the cess will not be increased. Well, if it is not increased, well and good. But if there is a danger of this being enormously increased, then I submit that my amendment will provide some safeguard. This is the least that the House can do for the cultivating *raiyat*.

Mr. O. M. MARIN: I rise to oppose this amendment. It is impossible for Government to consent to such an amendment. In the first place the term "cultivating *raiyat*" has been omitted from this chapter after careful consideration. In section 107D you will find that the definition of cultivating *raiyat* has been deleted. Secondly, the thing is grossly unfair. The effect of this amendment will be that the cultivating *raiyats* will pay less than their due share of cess, and the deficiency will have to be paid out of the pocket of the landlord. If a *raiyat* holds good land at a very low rate of rent, he and not his landlord should in equity pay the greater part of the cess. The principle of this amendment would only be workable if confined to cases where the so-called cultivating *raiyat* has a rent-free holding. But as it at present stands, this amendment is objectionable and is not workable at all.

The motion was put and lost.

The Hon'ble Sir PROVASH CHUNDER MITTER: May I, Sir, bring to your notice that an amendment in connection with clause 14 still remains to be considered. Some of my friends on the other side promised to supply us with a draft, but they have not done so as yet.

Sir, with regard to this amendment regarding "forest", I may remind the House that some members thought that the drafting of Rai Bahadur Mahendra Nath Gupta was not good and some members suggested some alterations. If we could get an alternative draft we could look into it. But we have not been supplied with a draft up till now, as promised.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, the drafting can be done by them if they agree as to the principle. In the main clause there is no operative clause regarding "forest."

Mr. PRESIDENT: Then you are going back on your word. A definite promise was made that a separate draft would be placed before the House.

Khan Bahadur Maulvi AZIZUL HAQUE: I suggest that in amendment No. 66, the word "lands" should be substituted by the word "forests" to read as follows: "Provided that the Collector may, at his discretion, decide what forests shall be assessable."

The Hon'ble Sir PROVASH CHUNDER MITTER: I think that will lead to still greater complications and so I cannot accept it. As they have not put forward any suitable amendment, I submit, for your consideration, that the Rai Bahadur's amendment should be put.

Khan Bahadur Maulvi AZIZUL HAQUE: I suggest that the wording be: "Provided that the Collector shall decide which jungle or forest is to be left cess-free and which is to be treated as immovable property for the purpose of assessment."

The Hon'ble Sir PROVASH CHUNDER MITTER: I am afraid I cannot accept it.

Nawab MUSHARRUF HOSAIN, Khan Bahadur: Sir, I think the wording as drafted in the Rai Bahadur's amendment is quite right. It conveys the meaning clearly and should be accepted. It is quite comprehensive. It reads——

Mr. PRESIDENT: Are you supporting the Rai Bahadur's amendment?

Nawab MUSHARRUF HOSAIN, Khan Bahadur: Yes, Sir.

Mr. PRESIDENT: That is not necessary at this stage.

The following motion of Rai Bahadur Mahendra Nath Gupta was then put and agreed to.

"That in clause 14, to clause (*iii*) of sub-section (*3*) of proposed section 107C, the following proviso be added, namely:—

'Provided that the Collector may, at his discretion, decide what lands shall be assessable under Chapter V as forests'."

The motion that clause 14, as amended, stand part of the Bill was put and agreed to.

The question that clauses 15 and 16 stand part of the Bill was put and agreed to.

Adjournment.

The Council was then adjourned till 3 p.m., on Wednesday, the 24th January, 1934, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Wednesday, the 24th January, 1934, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh), in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers, and 100 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Temporary incumbents in Government service.

***15. Babu KISHORI MOHAN CHAUDHURI:** (*a*) Is the Hon'ble Member in charge of the Appointment Department aware

(*i*) that many officers are serving under the Bengal Government on a temporary basis for more than 10 years; and

(*ii*) that they do not get the privilege of the permanent incumbent and cannot make any future provision for their family members?

(*b*) If the answer to (*a*) is in the affirmative, are the Government considering the desirability of making any rule so that all temporary incumbents will be confirmed as soon as 3 years' service is completed so as to enable them to get the benefit of making suitable family provision?

MEMBER in charge of APPOINTMENT DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*a*) (*i*) Some officers are serving on a temporary basis for considerable periods. How many, if any at all, have been on a temporary basis for over ten years is not known.

(*ii*) Yes, but that does not debar them from making provision for their families.

(*b*) No.

Détenus transferred to Deoli.

*16. **Babu KISHORI MOHAN CHAUDHURI:** (*a*) Will the Hon'ble Member in charge of the Political Department be pleased to state—

(*i*) how many détenus have been transferred to the Deoli Detention Camp from the different jails and detention camps in Bengal;

(*ii*) who amongst the détenus are generally transferred from different Bengal camps and jails to Deoli;

(*iii*) whether there is any classification of détenus on the basis of such transfers;

(*iv*) how many détenus have been given either conditional or unconditional release and home internment from Deoli since their transfer there;

(*v*) whether it is a fact that the Government are not giving conditional release even to those détenus who were prepared to give an undertaking before their transfer from Bengal to Deoli on self-same terms on which some détenus have been given conditional release some time ago;

(*vi*) whether it is a fact that a détenu from Buxa who was brought down to Calcutta before his transfer to Deoli only a few days ago was not given the opportunity to see the Deputy Inspector-General of Police, Intelligence Branch, Criminal Investigation Department, Bengal, or his special Superintendent according to his prayer and that his guardian was not also given a reply to his letter with the prayer for such an interview with the Deputy Inspector-General of Police, Intelligence Branch, Criminal Investigation Department, Bengal, before the transfer of the détenu to Deoli?

(*b*) If the answer to (*a*) (*vi*) is in the affirmative, what are the reasons for the same?

MEMBER in charge of POLITICAL DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*a*) (*i*) 486.

(*ii*) and (*iii*) Government are not prepared to furnish any information on these points.

(*iv*) One.

(*v*) Détenus have never been conditionally released merely because of their readiness to give an undertaking. The primary consideration is whether, having regard to their past history and activities, any reliance can be placed on the undertaking offered.

(*a*) (*vi*) and (*b*) The détenu arrived in Calcutta on the 11th December and left for Deoli on the 13th December. Time did not permit of an interview with the Deputy Inspector-General, Intelligence Branch, and as no interview was possible, the letters were left unanswered.

Licensing Board meetings and the Commissioner of Police.

*17. **Mr. W. H. THOMPSON:** Will the Hon'ble Minister in charge of the Excise Department be pleased to state how many times within the last two years the Commissioner of Police, Calcutta, has attended meetings of the Licensing Board of which he is a member?

MINISTER in charge of AGRICULTURE and INDUSTRIES (EXCISE) DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): Once.

Mr. W. H. THOMPSON: Is the Hon'ble Minister aware that the Licensing Board has to work in respect of details to a considerable extent with the Calcutta Police?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, Sir.

Mr. W. H. THOMPSON: If it is true, as appears to be the case, that the Commissioner of Police has not the time or the inclination to attend meetings of the Licensing Board, is the Hon'ble Minister prepared to appoint in his place another police officer who will be able to attend regularly?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Government will be pleased to consider this proposal; when the Commissioner will not be able to attend personally, he might send one of his subordinate officers in his place.

Mr. W. H. THOMPSON: Will the Hon'ble Minister be pleased to state whether, in that case, in his opinion such police officer will be allowed to vote?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The question will be considered, Sir.

Appointment of non-Bengalis by certain district boards in Bengal.

*18. **Mr. S. M. BOSE:** (*a*) Is the Hon'ble Minister in charge of the Local Self-Government Department aware—

(*i*) that recently some appointments of non-Bengalis have been made by certain district boards in Bengal; and

(*ii*) that there is a strong public feeling in Bengal against the employment in Bengal of persons not domiciled in Bengal?

(*b*) Are there any rules made by Government laying down domicile in Bengal as one of the qualifications applicable to appointments under the Local Self-Government Department?

(*c*) In making rules under section 76(*a*) of the Bengal Municipal Act, 1932, prescribing the qualifications of candidates for employment in municipalities as engineers, health officers, superintendents of water works, sanitary inspectors, accountants and overseers, are the Government considering the desirability of laying down domicile in Bengal as one of the necessary qualifications?

(*d*) Are the Government also considering the desirability of making similar rules in the case of employees of district boards in Bengal?

(*e*) Are the Government considering the desirability of sending a circular to various local bodies drawing attention to the policy of Government to employ Bengalis in Bengal?

MINISTER in charge of LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) (*i*) Government have no information on this point.

(*ii*) Government are not aware that there is any strong feeling on the subject among the public generally.

(*b*) No.

(*c*) and (*d*) Government will be pleased to consider the proposal.

(*e*) No.

Mr. S. M. BOSE: Will the Hon'ble Minister be pleased to state with regard to (*a*) (*ii*) if he is aware of the existence of any public feeling on the point?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I know of public feeling as given expression to on the floor of this House.

Mr. NARENDRA KUMAR BASU: Does the Hon'ble Minister consider that the expression of public feeling on the floor of this House is not tantamount to giving expression to the feeling that exists in the country generally?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That is a matter of opinion; and I am not in a position to express any opinion on it.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Minister be pleased to state if this feeling has not found expression in the Press in Bengal?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That also is asking for an expression of opinion.

Mr. SHANTI SHEKHARESWAR RAY: I submit, Sir, that it is a question of fact and not a matter of expression of opinion. My question is: Whether the Minister is not aware that this feeling has found expression in the Press in Bengal; it is not a matter of opinion, but a matter of positive fact.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Very likely, yes. But it is for the Hon'ble Minister to decide if that feeling is shared by the public generally.

Mr. P. N. GUHA: With reference to answers (*a*) and (*b*), is the Hon'ble Minister aware that the District Engineer of Bakarganj, who has just retired, was a Punjabi and that the District Engineer, who has just been appointed in his place, is a Punjabi also?

The Hon'ble SIR BIJOY PRASAD SINGH ROY: The District Engineer, who has just retired, might possibly have been a Punjabi—at least a non-Bengali; but we have no information about the domicile of the person who has just been appointed.

Mr. P. N. GUHA: With reference to answer (*a*) (*ii*), is the Hon'ble Minister aware that there is a very strong feeling on the subject in the district of Barisal?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: We have no information.

Mr. NARENDRA KUMAR BASU: Is the Hon'ble Minister in a position to tell us whether, when public feeling is expressed in this House, Government can plead ignorance?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The question is whether there is a strong feeling, but I am not in a position to state whether the feeling expressed by the hon'ble member or by his colleagues in this House tantamounts to the existence of a strong feeling amongst the public.

Mr. NARENDRA KUMAR BASU: Is the Hon'ble Minister aware that a resolution to this effect was accepted by this House?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, Sir, I am aware.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Minister be pleased to state whether the acceptance of a resolution by this House without opposition is not an expression of strong feeling—at least among the members of this Council?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It may be among the members of the Council, but not among the public generally.

Mr. NARENDRA KUMAR BASU: Is it the policy of the Government—at least of the present Government—to hold that expression of a strong feeling among non-official members of this Council—at least of this present Council—is not an expression of the public feeling on the subject generally?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The question is whether there is a strong feeling among the public on this matter, but Government are not in a position to express any opinion on that point.

Mr. NARENDRA KUMAR BASU: May I repeat my question, Sir, for that has not been answered properly? My question was: Is it the policy of the present Government to say that this strong feeling of the non-official members of this Council does not reflect that strong feeling of the public generally?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Probably it does.

Khan Bahadur Maulvi AZIZUL HAQUE: Is the Hon'ble Minister aware that other self-governing institutions like the Calcutta University, Calcutta Corporation and the Science Association have appointed more non-Bengalees than district boards in Bengal?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I have no information whether they have appointed more non-Bengalees, but I know that at least the Calcutta Corporation has appointed some non-Bengalees.

Babu JITENDRALAL BANNERJEE: Is it or is it not a fact that the appointment of a District Engineer lies entirely with the members of the district boards concerned? Has Government much to do with that directly or indirectly?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Government have nothing to do with it save according their approval to such appointment.

New rules regarding travelling allowance of chairmen and vice-chairmen of district and local boards.

*19. **Maulvi ABUL QUASEM:** Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state—

(*i*) why so much delay is occurring in the promulgation of new rules regarding travelling allowance of chairmen and vice-chairmen of district boards and local boards;

(*ii*) when are the rules likely to be promulgated and brought into force; and

(*iii*) when the rules under the Local Self-Government Act necessitated by the recent amendment will be made and come into effect?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*i*) Because a great many criticisms of the draft rules were received and several complicated questions were raised.

(*ii*) It is not yet possible to say when rules can be brought into force.

(*iii*) As soon as possible.

Maulvi ABUL QUASEM: With regard to answer (*ii*), will the Hon'ble Minister be pleased to tell the Council whether Government has postponed the framing of rules for the time being?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No Sir. In fact the Special Officer is now framing the rules, but as numerous rules have got to be framed—rules in connection with the amended Bengal Local Self-Government Act, Bengal Municipal Act, Calcutta Municipal Act and the Motor Vehicles Act—naturally it would take some time.

Maulvi ABUL QUASEM: Will the Hon'ble Minister be pleased to give us an approximate idea of the time which is likely to elapse before the rules are made and brought into force?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It is very difficult, Sir, to give an approximate idea.

Gambling in carnivals.

*20. **SETH HUNUMAN PROSAD PODDAR:** (*a*) Is the Hon'ble Member in charge of the Police Department aware—

(*i*) that a number of shows and carnivals often appear in Calcutta and Howrah, assuming various names and disguises, in which gambling in many forms is indulged in as side shows;

(*ii*) that these sorts of subterfuges bring ruin to thousands of poor people of the city; and

(*iii*) that these places become the haunting grounds of bad characters who lure innocent people and manage to deprive them of their last penny?

(*b*) If the answer to (*a*) (*iii*) is in the affirmative, will the Hon'ble Member be pleased to state what steps, if any, are being taken by the Government to eliminate these factors from the shows?

MEMBER in charge of POLICE DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*a*) and (*b*) The attention of the member is invited to the notifications, dated the 28th November, 1933, published in the *Calcutta Gazette* of the 30th November, 1933, under the Bengal Places of Public Amusement Act, 1933. The information of Government is that the abuses which previously existed have already to a great extent been suppressed by the application of the provisions of the Act.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Grant of commutation money after the retirement of the members of the Bengal Judicial and Executive Service.

9. **Rai Sahib AKSHOY KUMAR SEN:** (*a*) Will the Hon'ble Member in charge of the Finance Department be pleased to state whether the members of the Bengal Civil Service (Judicial and Executive) are entitled to get commutation money shortly after they retire?

(*b*) If the answer to (*a*) is in the affirmative, is the Hon'ble Member aware that for the last few years the members of the said service are not getting commutation money?

(*c*) Are the Government considering the desirability of taking early steps so that the members of the said service may get commutation money on application shortly after their retirement?

MEMBER in charge of FINANCE DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*), (*b*) and (*c*) Members of the Bengal Civil Service (Judicial and Executive) are not entitled to have their pensions commuted, but the practice is, subject to certain rules, to sanction commutations up to the limit in any year of the funds provided for the purpose in the budget. In recent years the funds provided for the purpose have fallen considerably short of the demand represented by the applications received, and financial stringency has made it impossible to provide larger funds. Applications are being disposed of in the order of their receipt in the Finance Department, and until the financial position improves no steps to hasten disposal of applications are practicable.

Mistries of the Workshop Department of the Dacca Ahsanullah School of Engineering.

10. Maulvi ABDUL GHANI CHOWDHURY: Will the Hon'ble Minister in charge of the Education Department be pleased to state what action he proposes to take on the application submitted to him on 26th July, 1932, by the head and senior *mistries* of the Workshop Department of the Ahsanullah School of Engineering, Dacca, when the Hon'ble Minister went on a visit to the said school?

MINISTER in charge of EDUCATION DEPARTMENT (the Hon'ble Mr. Khwaja Nazimuddin): The member is referred to the reply given on the 17th March, 1933, to the unstarred question of Rai Bahadur Rebati Mohan Sarkar on the same subject.

LEGISLATIVE BUSINESS

GOVERNMENT BILL.

The discussion of the Bengal Cess (Amendment) Bill, 1933, was then resumed.

Clause 6.

Mr. PRESIDENT: The question is that clause 6 stand part of the Bill.

Maulvi ABDUL HAMID SHAH: I beg to move that clause 6 be omitted.

He spoke in Bengali of which the following is an English translation:—

Mr. President, my amendment motion rests on two main points. The first one relates to the question of rebate to be granted to landlords under section 45(*1*) of the proposed Cess Bill and the second refers to section 45(*2*) which lays down that if the amount of cess is not paid within one month after the due date, the amount shall be realised from the assessee together with interests thereon at 12½ *per cent.* and the cost of realization, at any time within six years following the expiry of the appointed time.

Now, to encourage payment of cess by landlords on due dates a rebate of 5 *per cent.* has been sought to be granted. But I do not see how this can serve any useful purpose, as the landlords are very hard hit by the present economic depression. In order to pay off cesses regularly they will have to borrow money from *mahajans* at a higher rate of interest than the amount of rebate proposed to be granted. The amount of rebate allowed is therefore too mild a stimulus to induce landlords to contract any loan to meet the demand for cess. As to the assurance that has been given of granting rebates to the tenants, the less said the better. The House may, after a little consideration, come to realize that in Bengal the number of tenants who pay cesses to the extent of Rs. 50 may be counted on one's finger ends. Hence, the proposed rebate system will be of little help. I cannot support the rebate system even if it is meant to compensate the landlords for having accepted the responsibility of collecting cesses. It is a matter of common knowledge that the Bengal Tenancy Act already contains a provision for compensation at the rate of from 12½ *per cent.* to 25 *per cent.* in case of default in the payment of cesses. There can, therefore, be no reasonable ground for allowing a further compensation to the landlords at the rate of 5 *per cent.* Moreover, arrears amounting to lakhs of rupees on account of cesses remain unrealized at present from *zemindars.* Will not the district boards sustain heavy losses if rebates are allowed on the arrears? The rebate system might have been partially supported if the arrears of cesses had any chance of being realized in one lump sum. But there is no such provision in the section in question. Next, as to the second point mentioned before, the *zemindars* as well as the tenants are both being weighed down under the heavy pressure of want and privation. It is now almost impossible to realize the amount of cess that is in arrear. In these circumstances, the provision for realizing arrear cess with interests at the rate of 12 *per cent.* together with the cost of realization will be the last straw to break the camel's back. Hence, I oppose clause 6 of the Bill and am constrained to bring the motion of amendment with a view to get this clause deleted from the text of the Bill.

Mr. NARENDRA KUMAR BASU: Would it not be better to have one discussion on the next motions also as they are all kindred?

Mr. PRESIDENT: Yes, I agree with you.

Maulvi SYED MAJID BAKSH: I beg to move that in clause 6, proposed section 45(*1*) be omitted.

Sir, as has been said by the previous speaker, this clause contemplates the well-known principle of rebate. I may read the clause for your information:—

"A rebate of 5 *per centum* of the amount payable as an instalment of road cess and public works cess under Chapter III, IV or VIIA in respect of any estate or tenure or of the interest of a cultivating *raiyat* shall be allowed at the time of payment: *Provided* that—

(*a*) the instalment is paid in full at one time on or before the due date, and

(*b*) the annual cess payable in respect of the estate, tenure or interest amounts to Rs. 50 or more."

Sir, this clause provides that if the cess that is due is paid before the due date, a rebate of 5 *per centum* will be allowed. Sir, one expression from me will be sufficient to convince you that this is very inequitable and at the same time bad economy so far as the district boards are concerned. We have already passed provisions in the Bill which will reduce the income of the district boards. Yesterday a compromise section was embodied in the Bill to the effect that one-fifth of the gross produce of the land—assuming that paddy is the production of that land, which, in most cases, will only be assumed—will determine the annual valuation upon which cess will be levied. That will by itself reduce the income of the district boards on account of the low value of paddy at present. But if you pass this clause also that will further cripple the district boards. Many district boards have an income at the present moment of about Rs. 2,00,000 and upwards. Now, under this scheme the district boards with this income will lose Rs. 10,000 annually. This amount if left to the district boards could be used for many useful purposes—for example, the improvement of roads, the improvement of sanitary conditions, grants to dispensaries and primary schools and for many other useful and nation-building purposes. If this amount is withdrawn from the district boards, it will cripple their resources and reduce them to a comparatively impotent condition. If this clause has anything in its favour so far as 45A is concerned, the sting is in the tail, *viz.*, in sub-clause (*b*). It is quite clear whom this provision is going to benefit—not the poor tenants who cannot pay cess and upon whom the

cess will lie very heavily when valuation will go up higher—not that class of tenants and poor people, but that class of persons who will pay an annual cess in respect of their estates to the amount of Rs. 50 or more. You can imagine the rent payable if the cess is Rs. 50 or more. If the cess is calculated at 2 pice per rupee, then 32 times Rs. 50 will come to Rs. 1,600. Therefore, only persons who pay rent amounting to Rs. 1,600 will be able to utilise the benefit of this section. It does not help the poor at all. It only helps those who need no help: it is simply carrying coal to Newcastle. People who are already in a good condition will be benefited; it is palpably this class of men whom this provision will benefit.

Sir, I have nothing to do with this class of people. I will only argue whether the hardships of the *zemindars* are such as to warrant this grant of rebate to them, while it would place the district boards under a great financial difficulty. This, I submit, is inequitable, and I think that on account of this fact, the Cess Act will reduce the cess demand lower than is proper. So long as the present price of food crops continues, I think a further reduction in the cess demand should not be accepted by this House.

Nawab MUSHARRUF HOSAIN, Khan Bahadur: I rise to support the motion. My friends have been urging before this House that if this 5 *per cent.* rebate were availed of by those who are given the right under the law, then the district boards will suffer. Sir, it is no sound finance to think that taxation can be introduced where this sort of uncertainty should be allowed to exist in the matter of the tax. You do not know exactly how much advantage our friends will be able to take from this sort of rebate. It may be that one-third of the people may avail themselves of it, or it may be even half, but never more than half, I believe. Take the case of my district board where the income from road and public works cesses is about Rs. 4,00,000; Rs. 20,000 will have to be provided, when the taxation is imposed, just for a contingency like this. But Rs. 20,000 is not a small amount to think of. In the Jalpaiguri district, more than Rs. 20,000, in fact, about Rs. 40,000, is spent on the repair of roads. If you say that this Rs. 20,000 will have to be kept in suspense for the district boards, then the district boards will not be able to function at all, and all the roads will remain unrepaired. So, Rs. 20,000 is not a small amount to be so lightly talked of, at least for my district. As there is so great an element of uncertainty in a matter of taxation like this, I think in the interest of good finance, this should be avoided.

Then I will argue it from another point of view. I know that out of this Rs. 4,00,000 the tea planters supply 1¼ lakhs the *zemindars* supply 1¼ lakhs and the remaining 1½ lakhs is supplied by the poor agricultural tenants. Of these 1½ lakhs at least Rs. 1,00,000 comes from

those people who can at once pay the amount and ask for the rebate. Now, if they want the rebate, at least Rs. 10,000 or Rs. 12,000 will have to be given to them. From where will this Rs. 12,000 come? Either the district board will have to curtail their expenditure to the extent of Rs. 12,000, or it must come from those people who cannot pay in time and who cannot avail of this rebate. It means that those who cannot afford to pay will have to pay more on account of this rebate. So I think in either case neither of these contingencies should be allowed to crop up. Those who cannot afford to pay will have to pay an additional amount for this rebate. I believe that is not sound finance. Generally, taxation should be on the proper lines, that is those who can afford to pay should pay more. Here we are thinking of assessing the people or punishing a certain section of the people because God has not helped them with plenty. That being the case, I would ask the House to consider these two aspects of the case. Is it right for a few fortunate to inflict such a heavy penalty on their poorer section? I think those who have got the heart will at once say that it is not right for us, for the purpose of finance, to get more from those who cannot afford to pay. On these grounds I strongly support the motion that has been moved by my friend Maulvi Majid Baksh. I can tell you this much that the tea planters during the next succeeding four years will seek for rebate. It will not be good finance for this House to allow rebate to them. When I say so I do it against my own self. I think the House will not misunderstand me when I speak against my ownself. On these grounds I respectfully submit that this is not a good policy.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, of all the provisions in the Cess Bill it seems to me that the proposal of rebate is its worst feature. I would have understood it, had the necessity of rebate been considered in trade and business. In business there is no other quicker way of realising demands and there is no penalty in default. But where the State has to realise certain demands, the principle is probably unique at least in the history of revenue legislation in this country. The rebate has been proposed because, as explained in the notes on clauses, the holder or the farmer of an estate has to meet his cess liability even though he is not able to collect the full amount and may not be able to do so without incurring legal expenses. In other words, the rebate is thus being given as a sort of compensatory advantage to the landlords for their burden of collection and for their liability of punctual payment whether they can collect or not.

Sir, I may at once say that I would not have much objection if the present proposal had been made as a temporary measure to meet the present economic distress. I would have even cordially welcomed

the reduction of the cess liability and demand on every one not merely to the extent of only 5 *per cent.* but to the extent of 20 or 25 *per cent.* had it been to meet the present economic situation, but if it was apportioned not merely to the landlords and tenure-holders but to everybody —the tenants and *raiyats*? But, Sir, unfortunately that principle has not been accepted and I have the greatest objection on principle to introduce rebate to benefit permanently only a certain class, the people at the top—the *zemindars* and landlords—with no corresponding relief to the tenants and *raiyats*. Sir, the only effect of the indirect advantage of a large sum, say, 4 or 5 lakhs, which they are at present getting in the shape of benefits through the district board. As my friend Maulvi Majid Baksh has said, the income of the district boards will decrease if 5 *per cent.* of their regular yearly collection is taken away to fill the pockets of the landholders and tenure-holders, and their income will go down without any corresponding benefit accruing to them. Sir, is it fair at this juncture to take away 5 *per cent.* of their assured income without any corresponding relief to the cess-paying *raiyats* of Bengal? Is it desirable to give relief to only one section of the people, taking away the advantages from all? Sir, I will now deal with two other aspects: first of all what is the justification for this rebate? Sir, as I have said in my note of dissent on the Select Committee's report,—let us take the figures of cess collection in normal times—out of a rough total annual cess demand from 1922-23 to 1928-29 of Rs. 81 lakhs, roughly Rs. 80 lakhs was the annual collection—almost over 99 *per cent.* If that be so, is there any necessity for giving rebate to spur up collections? Has the district board made any complaint that the collections are not satisfactory and some encouragement is necessary for the regular collection of cess? I am afraid, Sir, that this matter has been dealt with in a manner in which there cannot but be a strong protest from every section of the House. But quite apart the question that really arises in connection with rebate is one of principle, namely, should the landlords be given any compensation for their duty of cess collections—for bad debts and inability of collections? I shall not attempt with a single statement of mine to dogmatise on this issue, but shall content myself by immediately taking you back to the seventies of the last century when cess was first brought into operation in this province. When the Cess Act was first introduced in this province, the question was discussed threadbare and the landlords' representatives headed by, if I mistake not, Maharaja Sir Jotindra Mohan Tagore, raised the question whether or not the landlords would be entitled to some compensation or remuneration for the duty of collecting cess.

Prior to the introduction of the Cess Act, a Cess Committee was appointed by the Government of Bengal presided over by the Hon'ble Mr. Schalch in 1871, and that Cess Committee thoroughly investigated

the question of remunerating the *zemindars* for their burden of collection. Thereafter, the Government of Bengal also very carefully went fully into the matter. The Cess Committee proposed originally that a deduction should be made of one-fourth of the amount of cess rate on the amount of revenue payable by the *zemindars*. The Government of Bengal with a view to definitely providing for the adequate remuneration of proprietors for collecting tax, raised that deduction to one-half. The landholders and their supporters should therefore carefully note that if under section 41 of the Bengal Cess Act they are at present paying the two cesses at the rate of one anna on annual value *minus* ½ anna on revenue instead of only *minus* ¼ anna on revenue, it is because the additional ¼ anna was a remuneration to the landlords. To quote the very words of the then Hon'ble Member introducing the Cess Bill (Mr. V. H. Schalch) in 1871. He said: "The Cess Committee proposed that a deduction should be made of one-fourth of the amount of the rate on the amount of revenue or rent..... We now propose to raise that deduction to one-half. Calculating the Government of Bengal revenue throughout Bengal (including Bihar) at 4 crores of rupees and the gross rental at 12 crores, the one-fourth additional allowance would, at the full rate of half an anna in the rupee, amount to something over three and a quarter lakh of rupees and it was submitted that was a fair remuneration to be given to the *zemindars* for the trouble and risk of collecting the rate."

You must remember that this was ultimately agreed to even though the then Lieutenant Governor as the President of the Council was definitely of opinion that—I am quoting his words—"the *zemindars* were not entitled to any remuneration for collecting the cess and should not have any remuneration for any work of this kind. Property had its duties in all parts of the world as well as its rights"—I think this maxim has long been forgotten in Bengal—"and that was eminently the case in India and most eminently in Bengal where landed property had been created for the sake of the duties which the landholders were expected to perform." Sir, I ask the sponsors and supporters of the Bill—What answer they can give to this? The statements of the then Lieutenant Governor and the Hon'ble Member introducing the Bill when it was drafted were definite on the point. It appears from the speech of the then Lieutenant Governor that previous to the passing of the Cess Act under the Indian agrarian system all sorts of duties were delegated to the *zemindars* and one of those duties was the making of roads. Sir, I am again quoting the words of the then Lieutenant Governor. He said: "Up to very recent years it had been the practice of the Magistrates to issue circular *parwanahs* desiring *zemindars* to repair the roads after the rains." The Lieutenant Governor further quoted from the papers regarding the permanent settlement to show that the "*zemindars* were engaged to take special

care of the highways and roads, so that the travellers might pass and repass with perfect confidence and safety," this including not only the protection of roads from thieves and robbers but the obligation to keep the roads in some sort of repair. As the *zemindars* had been absolved from all duties in connection with roads, the Lieutenant Governor was definitely of the view that "the least they could do in return was to collect the rate." "In consideration of their collecting the rate, they were absolved from their original burden of keeping the roads in repairs." So said the then Lieutenant Governor who was strongly of opinion that the *zemindar* was not entitled to have any compensation for the collection of the cess. In addition to this, he said: "Inasmuch as the *zemindar* would have to pay less than the *raiyat*, the difference between the amount paid by him and his under-tenants would be a compensation for the trouble imposed upon him. Under the Bill the *raiyats* would pay about 3/5ths and the *zemindars* about 2/5ths of the cess. The *raiyat* would pay the major part and the *zemindar* the minor part, even allowing for irrecoverable balances." "Under the circumstances," declared the Lieutenant Governor, "the suggestion to compensate the *zemindars* for the collection of the rate was inadmissible."

Sir, I do not see any reason why to-day, about 64 years after, that question should again be revived, forgetting that the *zemindars* were absolved of their responsibility in connection with the roads and forgetting also that they are enjoying a favourable rate as compared with the tenants simply because they have to collect the cess. Sir, there was another method in the Bill to compensate the landlords, and that was deliberately done. It is that the landlords were required to pay according to the present Cess Act only half of the cess with regard to rent-free tenures. He realises double the cess, and if the tenant does not pay, he can realise four times. Sir, is this not for the pecuniary benefit to the landlords? As I have said before, the Cess Act conferred some special benefits on the *zemindars*. What I have quoted shows the original intention of the framers of the present Cess Act. But the reason why this Bill has been introduced, is again to confer further benefits on all those who profit by the *zemindary* system.

Sir, I do not venture to be a prophet, but would only say one word, and that is, that the net effect of this Bill, if passed into law, will be that it will be a dead letter like the Primary Education Act. You will not be able to implement the provisions of this Bill, and the only effect will be that you will put an extra 5 *per cent.* into the pockets of the landlords. I am quite certain that most of the district boards of Bengal will have their incomes reduced by 33 *per cent.*, even if it does not mean something more than that. Of course, if you believe that the present economic situation will improve, that is, if the price

of paddy goes up from Re. 1 or Re. 1-8 to Rs. 4 or Rs. 5 per maund, then the situation might be better. But I believe that the best economic experts in the world have their doubts if it will at all be possible to retrieve the economic situation. Of course, if another war comes about, then the situation might improve. As far as this question is concerned, we know it will only result in a disastrous position. I feel, Sir, that it is my duty to oppose this proposal.

Mr. SARAT KUMAR ROY: Sir, I rise to oppose this motion. The mover thinks that the provision for rebate is solely intended to please the *zemindars*. But he forgets that the initiative for this proposal has come from official quarters and it has been made voluntarily before anybody of the public has sought it. And presumably there are some very cogent reasons for it, as I shall presently try to explain.

No doubt the *zemindars* have welcomed it; but they have also supported the suggestion that the benefit should be enlarged and extended to other sections of the landholding community as well. But my friends opposite ought to remember that that is not the reason which has persuaded the Government to make this concession.

Sir, I hope I am not very far wrong in saying that the public burden on the landholding community of Bengal has of late grown rather too much for them. Generally, the cost of production of agricultural products has risen; whereas prices are going down and hence the total burden of the land-owners has become rather oppressive, so much so that punctuality of payment of public dues has now become a thing of the past; and this unquestionably has affected the finances of the province. The resources of the Government of Bengal are not confined to land revenue, though the latter still forms the essential part of the entire finance. But as far as the self-governing institutions are concerned, such as the district boards, their case is different. For all practical purposes, they have to rely solely upon one particular resource, viz., cess revenue. And unless this revenue is realised with punctuality, their work must suffer, nay, reports have come to us that actually some of them have been compelled to suspend very important and urgent schemes of public utility, simply for want of funds. Is it then a wonder if they determine upon making a small sacrifice, for the sake of punctuality in realisation, particularly when, in the practical field, they find all coercive measures fail to secure it?

Sir, the law for enforcing payment of cesses is different and certainly less stringent than the law for enforcing the realisation of land revenue, and consequently, defaults in payment of cess revenue are much larger than in the case of land revenue.

Moreover, the costs of applying coercive measures for realisation of arrears of cess have to be borne by the district boards concerned,

some portion of which at least are lost to them. And I think the loss they thus sustain will, to a certain extent, be minimised by the provision for rebate, if the cess-payers can avail of it.

Sir, I think these reasons have greatly influenced the opinion of the Government, to come forward with this proposal and they have been actuated to make this concession mainly for these reasons, rather than for benefiting or pleasing the cess-payers, or any section of them.

In the next place, Sir, I submit that there was no statutory obligation on the *zemindars* to collect cesses or in any way to share the responsibility for deficits. When the Cess Act was first introduced into the Bengal Legislative Council in 1871, the *zemindars*, upon whom this additional burden was thrown, opposed it, primarily for the reason that it was a direct infringement of their statutory privileges. But, Sir, they were then told that the measure did not constitute an infringement of the permanent settlement, because it was a burden to be levied upon the entire landholding community and not merely upon those who were under direct engagement with the Government for payment of land revenue. Sir, if that be so, that is, if it is an obligation for every citizen to discharge as a citizen, wherefrom comes the exclusive responsibility of the *zemindar* for collection of cesses and for making up deficits? How can they be asked to discharge it and that without any remuneration whatsoever?

Sir, it was at that time declared by the Government that the deduction which was allowed in the assessment of cesses at every rupee of revenue the proprietors of estates pay, did constitute their remuneration. But that is nothing but a fallacy of argument. The cardinal principle that was then adopted in assessment was, that each cess-payer must pay such cess at the statutory rate upon each rupee of his net income, and in the case of a *zemindar* his such income actually amounts to the difference between the rent received and the revenue paid. Hence, the cess he actually pays, is just at the same rate and on the same basis of net income, as others possessing subordinate interests, pay. How then can it be said that the *zemindar* gets remuneration for collection?

Sir, it is but equitable that none should be asked to discharge any responsibility without offering him adequate remuneration, and I fail to see why only in the case of *zemindars* this fairness is denied.

Sir, under such circumstances, I think the offer that is being made now is but a very modest one, and that, too, not as a remuneration but merely as a rebate only for punctual payment. They have to make payments for their dues from other people. They take great risks in doing so: sometimes the risks prove fatal. Hence, the concession that the Government has come forward to offer is not present as some of my friends like to characterise it.

On the contrary, Sir, I may be permitted to point out to this House, that as a result of the change in the section as modified by the Select Committee, the *zemindar* is going to get almost nothing out of it; because just as he will get a rebate from the Government, he in his turn shall have to allow a similar rebate at the same rate to his tenants who pay cesses to him. In fact, almost the entire benefit received will go ultimately to the tenant cess-payers, the *zemindar* simply acting as the tenants' agent to secure it for them.

Hence, Sir, I submit that this provision is not so much favourable to the *zemindars* as to the tenant cess-payers, and I wonder why their representatives in the Council now want to delete this provision altogether from the Bill.

Moreover, Sir, if the recipients of the tax are willing and anxious to grant a concession and actually offer to forego a portion of it for their own interests, I fail to understand why we the cess-payers should grudge it?

If my friends opposite will still adhere to their objection to the provision of the Bill, I am afraid I am bound to suppose that they are doing so for some ulterior reason and certainly the House ought never to be a party to it.

With these remarks I oppose this motion.

Babu KHETTER MOHAN RAY: Sir, I oppose the motion for the deletion of clause 6. I think it will not be necessary to dilate on the principle underlying the grant of a rebate. It is resorted to in cases in which regularity of payment of dues is insisted on. In other words, it is to ensure regularity and punctuality of payments that the rebate is granted—not to speak of the present time when our country is afflicted by economic distress, but even in normal times. Cesses are not regularly paid, and the arrears are piling up *kist* by *kist* and year by year. The results are that at the year's end there is a vast accumulation of arrears and proceedings have to be taken under the Public Demands Recovery Act to recover the same. It is not always that every pice of the arrears is recovered by the proceedings under the Public Demands Recovery Act; sometimes a certain portion of the arrears has to be written off as unrecoverable. When the landlords are unable to recover the cesses from the tenants, in a good many cases they are reluctant to pay the tenants' portion of the cesses from their pockets. Hence, they default in paying cesses, and when certificates are filed for the recovery of cesses, various objections are preferred, to gain time and defer payments. It is very difficult to realize dues from the unwilling debtors, who are compelled by law to pay the debts due by others. Anyone who is acquainted with the proceedings in the office of a certificate officer will be able to testify to my aforesaid

remarks. Nowadays, arrears of cesses are piling up year after year, and the district boards are unable to carry on their ordinary administration for want of funds. Accumulation of arrears and unusual delay in realizing cesses mean a sad loss to the district boards and upset their financial arrangements. If by granting a small rebate, regularity of payment of cesses is ensured, it will, instead of causing loss to the district boards, improve their finances and enable the boards to carry on their administration efficiently and promptly. We are perfectly aware that the district boards had to abandon a good many projects for the improvement of the districts, because the cess-payers had failed to pay cesses regularly and punctually. If by granting a rebate the number of defaulters is minimised, it is a distinct gain to the district boards, because defaults mean delay and additional expenditure on the part of the boards, incurred in initiating certificate proceedings for the recovery of cesses.

Sir, considering the salutary principle underlying the grant of a rebate, we should not grudge the small pittance to the landlords. This rebate will not be of very appreciable advantage to the landlords individually. For, this will be distributed amongst the various claimants. Moreover, it will act as an incentive to make regular and punctual payments. There is another reason why the rebate should be granted. Landlords are compelled by law to collect cesses from the tenants and pay the same to the Collector, whether they are able to realize cesses from their tenants or not They always incur losses, as a certain percentage is not recoverable from the tenants. Besides, the landlords have sometimes to resort to legal proceedings to realize the arrears, which means expenses which are not always realized in full. Every landlord—big or small—has to incur loss on account of the liability to pay the tenant's portion of the cesses. It is only just and fair that a rebate should be granted, and this will be available to those who make punctual payments. Sir, I submit that this is no undue advantage granted to the landlord. It is said in some quarters that a rebate is allowable in business concerns only, and that in the matter of payment of cesses, which the assessees are bound by law to make at a certain time, no rebate should be allowed. I confess, I am not able to understand the reasoning of those who advocate this opinion. The underlying principle of granting a rebate is to ensure the punctual payment of dues. As I have already explained, besides the sanction of law for the enforcement of payment, the rebate system will be an additional incentive to the assessees to make punctual payments. There is no harm in applying a business rule to matters relating to taxes legally payable, if it proves effective and salutary and is not in any way in conflict with any rule of law. Sir, I have not come across any rule of law which comes in conflict with the rebate system. Besides, this rebate system will be a solatium to the landlords who are

compelled to collect cesses from the tenants. Sir, when the Cess Act was first introduced in the Council in 1871, the question of collection of cesses by the landlords was fully discussed. It was then found that the *zemindars* and dependant tenure-holders who derive this title from the *zemindars* were under no obligation under the terms of the engagements entered into by the *zemindars* and the Government at the time of the permanent settlement, to collect for Government the cesses from the assessees and to pay the same to the Government. Then it was contended that the *zemindars* should not be converted into tax collectors by a piece of legislation which smacked of arbitrariness. At that time Government proceeded with the legislation with the assumption that the *zemindars* as citizens ought to shoulder the responsibility of collecting the cesses from the assessees who were their tenants. But I must say that times have altered and the task of collecting the cesses have become increasingly difficult. Time has come when the Government should relieve the *zemindars* of this burden, or, in the alternative, make provision to give the hard pressed *zemindars* and their subordinate tenure-holders some relief. Relief contemplated in clause 6 is very insignificant in comparison with the onerous and enormous task under which the landlords are groaning. I am really sorry to see that some of my hon'ble friends have thought fit to oppose this insignificant relief. As I have already submitted, the rebate system will not in any way cause loss to the district boards but on the contrary will improve their finance.

With these remarks I oppose the motion.

Mr. W. H. THOMPSON: Mr President, Sir, I have tabled an amendment to follow immediately after those now under discussion, but I must admit my sympathy with the amendment moved by my friend Maulvi Abdul Hamid Shah, first because I look upon a rebate given in respect of a tax in this manner as a reward for merely doing one's duty and as a very dangerous precedent. I wonder whether the next step will be to give a similar rebate to the "poor landlords" for the payment of their land revenue. I am very sure I shall never get 5 *per cent.* off when I go to the income-tax office to pay my income-tax. Now that I have mentioned income-tax I would like to draw your attention to the contrast between the manner in which the Government in this country has treated the landlords and the income-tax payers on the occasion of this slump. The slump came and immediately there was a 25 *per cent.* surcharge added to the income-tax which falls on all industries and on all professions. By contrast we find that no new taxation is put on the richest people in Bengal, namely, the *zemindars;* not a pice. As you know, Sir, we always talk of the two equal halves of the cess—the cess paid by the tenant and the cess paid by the landlord; half an anna on the valuation paid by the tenant and half an

anna paid by the landlord—but the district board does not get an anna on the valuation. The district board gets that amount less half anna on a rupee on the land revenue. This amount which is deducted from the landlord's fair share before he has to pay, and nothing and no argument which can be put forward on the other side can get away from the fact that it is an allowance to the landlord. It is an allowance which is automatically distributed among landlords and tenure-holders of all grades by the system by which each one's cess is computed. It is a very fair system giving relief to those whose rent or revenue is high. From the other side we have heard of the terrible cost of collecting the cess. The collecting of cess costs the landlord not one anna. Who ever heard of a suit for rent being filed without the cess being at the same time included in it? Who ever heard of a tenant going to a landlord's *kutchery* to pay his rent and not being required to pay his cess along with it? No, that is a complete fallacy. The collection of the cess costs nothing at all. I admit there is something in the landlord's claim that there may be some loss due to the fact that he has to pay the cess *kist* by *kist*, but he cannot realise the cess *kist* by *kist* from the tenant. But against this he has this allowance of half anna in the rupee from the revenue. If I had my black-board, which the niggardly Government denies to poor M.L.C's., I would have given the complete figures. Since I have been denied that, I must give very round figures: land revenue Rs. 2,20,00,000 paid by the landlords; half anna in the rupee of the land revenue is no less than Rs. 7 lakhs; Rs. 7 lakhs the landlords get back. What for? For collection expenses and for their loss. Now Rs. 90 lakhs roughly is the cess. They ask for 5 *per cent.* of that back also—another 4½ lakhs. Rupees 11½ lakhs is money which the district boards ought to have which sticks in the pockets of the landlords on the way. When we are considering this rebate we must consider first of all, as has been already mentioned, whether the district boards can afford to give it. The total amount they will have to give up is Rs. 4½ lakhs and the roads in Bengal are not so good that we can afford to give up anything that ought to be spent on roads. Compare the roads in this province with the roads in other provinces of India. The roads of Bengal are a disgrace to this province. Rupees 4½ lakhs is to be given up. It means that the average district has to give up something like Rs. 25,000 and the district board before it gives it up must consider what it is going to get back in exchange. Does it spend, does it waste Rs. 25,000 on collecting the cess in difficult cases? Nothing like it in good times; even in these bad times nothing like it.

May I ask you to look at this rebate from another point of view? It is called 5 *per cent.*, but it is 5 *per cent.* not only on what the landlord pays from his own pocket but on the whole amount he collects from his tenants also. You talk of 5 *per cent.*, but the landlord's share of

cess is always smaller than the *raiyat's* share. It can in no case be less than 10 *per cent.* of what the *zemindars* pay from their own pocket. If I had my black-board again I could go into more detail, but I can give you roughly what the figure is for the whole province—cess, Rs. 90 lakhs; land revenue, Rs. 2 crores 20 lakhs; *raiyat's* share of the cess exceeds the land's share of the tax by half anna per rupee on the land revenue, that is by Rs. 7 lakhs. The *raiyat's* share of the cess is, therefore, half of Rs. 97 lakhs, that is Rs. 48½ lakhs and landlord's share of cess is Rs. 7 lakhs less than the *raiyat's* share—Rs. 41½ lakhs. The rebate which the landlord is to get is Rs. 4½ lakhs out of Rs. 41½ lakhs; not 5 *per cent.* at all, just over 11 *per cent.* and that 11 *per cent.* is an allowance for all the landlord classes. Actually, when the landlord has sub-let the land to tenure-holders, it will be a very much higher proportion of the amount which the landlord, the top grade landlord, pays from his own pocket. It will ordinarily be 15 to 20 *per cent.*; it may be 50 *per cent.* and in some cases more than 100 *per cent.* of the cess which the landlord pays from his own pocket. There may easily be cases in which the top grade landlords will get a rebate which is enough to wipe out all he has to pay from his own pocket.

There is one more point which I would like to refer to. May I go back to what I said before—that Government in this country are prepared to go on taxing industries and professions but they won't touch the landlords? The Government of Bengal may say that it has not been responsible, that the Government of India does that. But, Sir, in this very Act that we have before us there is plain evidence that the Government of Bengal follows the same principle as the Government of India. In this very Act the Government excludes from the rebate principle mines, railways and so on. May I refer you to clause 107C(3) which says "nothing in this chapter (Chapter VII) shall apply to the following classes of immovable properties, namely, railways, and tramways, mines and quarries and forests." May I turn back to the section which we are now discussing (section 45) which reads: a rebate of 5 *per centum* of the amount payable as an instalment of road cess and public works cess under Chapter III, IV or VIIA in respect of any estate or tenure shall be allowed at the time of payment. Mines, quarries, railways and so on, are assessed under Chapter V. Government has deliberately left them out because of its partiality to the landlords and has again shown its entire lack of sympathy with industry.

Mr. NARENDRA KUMAR BASU: It is very difficult for a mere outsider or for a person who is neither a landlord nor a tenant to make up his mind in the matter of a grant of rebate which has been proposed by the Government and adopted in the Select Committee, which made

certain modifications, and are now challenged from different points of view. One point of view is this, as one can judge from the amendments on the order paper, that no rebate should be granted. The other point of view is that rebate should not only be granted but the rate of rebate proposed in the Bill is insufficient. The rate may go up to 6¼ *per cent.*, 7 *per cent.*, 10 *per cent.*, or 25 *per cent.* I do not think there is any amendment to raise it to 25 *per cent.* We have heard speakers from both points of view. My friend Khan Bahadur Maulvi Azizul Haque in opposing the grant of rebate read some extracts from the speech of a Lieutenant Governor of Bengal who presided over the deliberations of the original Cess Committee. He seems to think that the views expressed by a Lieutenant Governor of Bengal at any time is sacrosanct and that this House will be well advised to treat these utterances with as much value as the Gospel and not venture to disagree with them. On the other hand, Sir, we have heard Mr. Sarat Kumar Roy say that it is an iniquitous system which imposes a burden upon the landlords to collect the cess which it is no part of their duty to collect, and that every labourer being worthy of his hire, they ought to be paid for that. There is a third class represented by Babu Khetter Mohan Ray and also by Mr. Thompson who seem to think that the district boards will suffer very much if this rebate were granted. (A VOICE: "Oh, they will be gainers.") Well, it was opposed by Mr. Thompson. As regards the last point, if you turn to the volume of opinions contained in booklet No. 3 you will find that some of the district boards are very much in opposition to the grant of rebate while some others welcome it. In fact, one of the district boards—I mean the metropolitan district board of the 24-Parganas, whose Chairman is a member of this Council—thinks that they ought to get 15 *per cent.* Therefore, I do not consider that it is of any value to rely on the opinion of the district boards as to whether rebate should be granted or not. Let us look at it from the point of view of this House.

(At this stage the Council adjourned for 15 minutes for prayer.)

(After adjournment.)

Mr. NARENDRA KUMAR BASU: As I was submitting, it is very difficult for a plain man to make up his mind in this multitude of counsels. We have already heard that the landlords under the present Act are already getting something in the form of rebate because they are given a rebate on the amount of revenue paid and no further rebate should be given. As to that, Sir, I submit that that argument is not worth considering because when every rent-payer gets a rebate on the amount of his rent I do not see any reason why the landlords should not get a rebate on the revenue paid. Then I was told that it was the

bounden duty of the *zemindars* under the permanent settlement to keep alive and in repairs the roads of the province and therefore it is a part of their duty to collect cess. As to that, the obvious answer that occurs to me is this. Firstly, roadways and pathways are quite a different proposition now in 1934 from that in 1793. Secondly, the income from cess is not entirely or even to a large extent spent by the district boards on roads alone. Therefore, that part of the argument does not to my mind, to use an expression which will not, I hope, be considered unparliamentary, cut any ice. On the other hand, it is stated that the rebate is a form of incentive to punctual payment. With regard to that we have been told that the Telephone Company offers 5 *per cent.* rebate and gets their bills paid promptly. I think it is an insult to the landed aristocracy of this country to say that a 5 *per cent* rebate will be an incentive to them for punctual payment. If it were something like the rebate granted by the Calcutta Electric Supply Corporation, which is not dominated by any Indian Civil Service officer or an ex-officer of that service who presumes to know everything, then that might be something of an incentive to the landlords. Then I am asked to take it that the landlords find it very difficult in these hard times to get their money from their tenants and, therefore, as they have to pay in advance they ought to be granted a rebate. I could have very well appreciated this argument even up to the end of last week, but after the sight which I saw on the 21st January, six days after the great earthquake, of a *zemindar's* son being carried in a huge marriage procession drawn by 12 horses and in great pomp and grandeur, I think it is an insult to the intelligence of non-landlords to say that the landlords who have got enough money to squander away even at this time, are unable to pay the cesses in advance. If they have got that amount of money to squander away, it is an insult to the landed aristocracy of this country to offer them this paltry rebate of 5 *per cent.* If Government were willing to accept an amendment, which, with your permission, I might bring in, to grant a rebate of 25 *per cent.* to the *zemindars*, I am quite sure there would have been something to be said in favour of that and that would be something which would not be derogatory to the honour and position of our landed aristocracy, but to bribe them with a 5 *per cent.* rebate is an insult which, I submit, Government should not offer them. We have already heard from Mr. Sarat Kumar Roy that the landlords do not want it. It is some busy-body in the officialdom who has inserted this. We hear from Government that 5 *per cent.* will be an incentive for punctual payment, but perhaps the gentlemen who have done this are not aware of the proud position occupied by our landed aristocracy, and in the interests of the landlords themselves I shall support the amendment.

Mr. F. A. SACHSE: Sir, during the last three years in my capacity as the court of wards I have been responsible for the collection

of 25 *per cent.* of the total revenue and cess from the permanently-settled estates in this province. I hope, therefore, I will be excused for saying a word or two as a temporary member of the fraternity of *zemindars*. We do not mind a bit of the cess we have to pay on account of the *khas* lands in our possession, though we do think that the rate in some recent valuations has been made too high compared with the rate for better lands in the possession of cultivators who are paying cess on the basis of their rent. We do not mind the cost of collection at all. What we do mind is the bad debts. We have to pay the total demand of each district punctually whether we collect it or not; and if we do not pay punctually, we have to pay 12½ *per cent.* interest up to the date of the filing of the certificate and 6¼ *per cent.* afterwards. The cess demands in many cases are half anna, one anna and two annas. If they remain unpaid for three continuous years, they are hardly worth filing a suit for. Nevertheless, many such demands may reach a very big amount in the aggregate. In normal times our loss in collection may not have been very heavy; but under the present day conditions it is heavy. There is the further thing that in districts where unfortunately a cess revaluation took place only two or three years ago and there was a heavy enhancement of cess, the *raiyats*, *patnidars* and the tenure-holders did not get used to paying the increased rates before the slump. In such districts we cannot expect anything like 16-anna collections.

Mr. Thompson told us that 45 lakhs of cess was paid by the *raiyats* and 45 lakhs less 7 or 9 lakhs by the *zemindars*, and he said that this 7 or 9 lakhs was compensation for the cost of collection. These figures assume that all the lands are let by the *zemindars* directly to *raiyats*. Well, nobody knows better than Mr. Thompson that this is not a true picture of Bengal. The *zemindars* do not claim to be paying anything like 45 *minus* 9 lakhs out of their own pockets. They now have very little land in their own possession. They are living on the rents fixed many years ago when there was no jute in Bengal and the price of rice was lower than it is at present.

Mr. Thompson said that the reduction of half-anna on the revenue was a compensation for the cost of collection. If this impression was given by the framers of the Act, I think it was one of their mistakes. This theory seems to me to controvert the main principle of the Act, which is that everybody should pay according to his actual profit. We all know that all grades of tenure-holders pay half anna on the difference between their collections and the rent they pay. With *zemindars* the revenue is their rent. Why should they not also pay on the difference between the rent received and the rent paid? I do not think, therefore, that the rebate of half anna should be considered

as covering the cost of collection; it was certainly never meant to be compensation for the failure of the tenants to pay 16 annas of their demand.

Then, the rebate which the *zemindars* are asking you to give is very small. It will still not prevent a heavy loss between the actual collection and the amount that we have to pass on to the Collector every year. We do not claim it as compensation for the cost of collection. We do not consider it as a monetary gain of any great importance; but we do claim it as a sort of recognition of the great services the *zemindars* have done in collecting the cess all these years and saving an enormous sum to the district boards and the payers of the tax.

Raja Bahadur BHUPENDRA NARAYAN SINHA, of Nashipur: I am sorry I have to oppose this motion. Most of the members who have spoken on this motion are labouring under a misconception of facts and figures. Let me take the arguments set forth by Mr. Thompson. Firstly, he feared that if rebate be allowed on cess, we might demand another rebate on land revenue. Land revenue is a statutory obligation on *zemindars* to be fulfilled by them; whereas cess has been paid by the landlord after collecting it on behalf of the district board from the tenants; the landlord has to pay the cess to the district board and acts as their agent in the matter of collection from the tenants. In the case of land revenue they are not to act as agents; but they act on their own behalf and on their own personal capacity and responsibility. So, there is the difference—a vast difference.

It is wrong to suppose that this rebate is granted only as a collection charge. On the other hand; as has been pointed out by Mr. Sachse, it is proposed to be granted in consideration of the bad debts, for the interest that one has to bear, for the payment of cess in advance under the law as it stands at present, and not as a management charge. Sir, only 5 *per cent.* rebate cannot on any account be a collection charge. Government allows 10 to 15 *per cent.* as collection charge. Even the courts allow 10 *per cent.* In the audit of Government accounts and in banks 10 *per cent.* has been allowed even for bad debts only. So it is a mistake to think that this rebate is going to be granted as a compensation or management charge. It is not so. Mr. Thompson thinks that the *zemindars* have to pay one anna as cess on the total gross rental and that a deduction of half anna on the land revenue has been granted to them as management charge or compensation. As has been pointed out by Khan Bahadur Azizul Haque, when the Cess Bill was first introduced in 1871, it was suggested that the deduction of half an anna on the land revenue should be regarded as compensation to the landlord. But the Select Committee did not approve the suggestion. When the report of the Select Committee had been taken

into consideration in the Council, Mr. Wardy pointed out that he did not see any reason why the landlords should be required to do the work of Government without any consideration for the trouble, expense and inconvenience they would be put to in carrying out the work. He said that "he thought some remuneration should be given to landlords for their trouble in collecting the cess and the risk attendant on doing so." The President of the Council, the then Lieutenant Governor of Bengal, said that it was the duty of the landlord to collect cess and the question of compensation should not arise. He further said that "he might at once state boldly that in his opinion the *zemindars* were not entitled to any remuneration for any work of its kind"—*vide* Council Proceedings, dated the 8th January, 1871. So, it appears that the principle of awarding compensation for collection of cess, though suggested and recommended to the Select Committee, was not accepted by the House. Moreover, the President, the then Lieutenant Governor, said that "under the Bill the *raiyat* would pay 3/5ths and the *zemindar* 2/5ths of the cess—the *raiyat* would pay the major part and the *zemindar* the minor part. Under such circumstances, he thought that the suggestion of paying compensation to the *zemindars* for collection of cess was inadmissible."

Now, Sir, at present the total gross rental is Rs. 16,33,77,000 and the revenue is Rs. 3,03,37,000. The *raiyat's* share of cess is about Rs. 51,05,000 and the *zemindar's* share of cess is about Rs. 41,50,000. Thus, 3/5ths share of the *raiyats* would be about Rs. 55,57,000 and 2/5ths share of the *zemindars* about Rs. 37,00,000. But actually *zemindars* are now paying 1/5th less than the *raiyats*. The question of compensation did not arise or was not allowed on the understanding that 3/5ths would be paid by the tenants. But that condition has not been acted upon now. And I think *zemindars* are still entitled to demand reasonably the compensation. Further, I would point out to this House that when the Cess Bill had been introduced, the Cess Committee recommended that ¼th of the rate should be paid by the proprietor and ¾ths by the occupier. As the burden of collection was thrown on the proprietors, they considered that in return some remuneration should be given to them and the mode in which they proposed to give that remuneration would be by decreasing their proportion of cess and increasing that of the cultivators—*vide* Council Proceedings, dated the 3rd January, 1871. Thus, it is a patent fact that the question of compensation or remuneration was left open when the Bill was passed in 1871. It is absolutely a mistake to think that the proposal of the Committee to give some compensation had been accepted and is still in vogue. It was all along left open and is still an open question.

Again, when the present Cess Act was introduced in 1880, the same question of payment of compensation to the *zemindars* arose, and the late Mr. Kristodas Pal suggested "that in consideration of the loss to

the *zemindars* some remuneration should be given to them." His Honour the Lieutenant Governor then said that he was prepared to consider what compensation should be given to the *zemindars* for the collection of cess; he, however, did not think that the Council would be in a position to say what was the exact amount of compensation that should be allowed to the *zemindars* to recoup their loss. I now quote the exact wording from the proceedings about His Honour's opinion: "No doubt the amendment was upon a subject which was worthy of consideration and His Honour had already publicly said that he was quite prepared to consider what remuneration should be given to the *zemindars* for the collection of these cesses. But he did not think that the Council would be in a position, without consulting the local officers of Government and others interested, to say what was the exact amount of *moshara* which should be allowed to *zemindars* to cover their losses. He, therefore, thought the consideration of this section should stand over until the general amendment of the Act was taken up, so as to enable the Government to inquire what was the best to be done in regard to this matter"—*vide* Council Proceedings, dated the 10th January, 1880. So, it will be observed that the question of compensation was again opened in 1880 and considered by His Honour the Lieutenant Governor. Therefore, the idea that the deduction of half an anna on the land revenue was granted to the *zemindars* as compensation is altogether wrong and erroneous. To support this view Khan Bahadur Azizul Haque has quoted some passages from this debate of the Council, omitting some of the relevant passages and has misled the House. On the other hand, as has been pointed out by Mr. Sachse, the principle adopted was that everybody should pay half an anna on his actual profits. The *zemindars* have to pay the whole amount they would have collected as if there be *cent per cent* collection, together with their own share of profit which is half an anna on every rupee. Similarly, the share of taxation on the tenure-holders and the tenants is in the same proportion. There is no difference between the share of the cess of a *zemindar*, a tenure-holder or a *raiyat* in this respect. Everyone has to pay from his pocket half an anna on his profit.

It has often been said that the collection of cess costs nothing. I deny it altogether. Mr. Thompson and others have said that when tenants come to pay rent they pay cess automatically and there cannot be extra cost. But I would lay one fact before the House. Suppose the income of the property is Rs. 10,000; for some reason or other the income of the property increases to Rs. 12,000. Do you think that some agency that collects Rs. 10,000 can collect Rs. 12,000 without any extra expenditure on staff? Of course, it cannot be done. In theory, it may be tenable but in practice it is impossible. We have to increase the agency. So, by the introduction of this cess, I can say without any fear of contradiction that we had to increase the

agency. We shall have to employ additional *naibs* to collect this cess. Again, if this principle holds good for the landlords, it will hold good for the Government. But this is not the case; there is differential treatment. In the Collectorate there are *serishtadars*, *tauzi-nabishes*, accountants, etc.; why then do they charge a heavy sum amounting to about Rs. 9,00,000 from the district board to keep some accounts only? They have nothing to do with the actual collection, yet they charge an enormous sum. What would have been the charge if they would have to make actual collection? Once Sir Provash said: "The cost of such collection would be something like 30 lakhs." But when dealing with *zemindars*, not a single pie has been allowed—is this justice? There is no justification why the *zemindars* should not get some compensation for keeping extra staff also and for collection of cess at their own expense.

Sir, Mr. Thompson blamed Government by saying that Government increased taxes by taxing the people only, without touching the landlords. I submit, Sir, that in the present case the landlords, tenure-holders, and occupancy *raiyats* have been taxed in the same rate—the landlords' share and the tenure-holders' share are the same. No special favour has been shown to the landlords.

Now I come to the arguments advanced by Khan Bahadur Maulvi Azizul Haque. He says that the Bill provides to grant rebate to persons paying cess of Rs. 50 or more. Personally, Sir, I have not the least objection to extend the same to every grade of persons, even to the cultivating *raiyats*. To mislead the House by saying that this rebate is for the landlords only is, I think, doing great wrong. There is no restriction as to the class of persons. It is proposed to grant to cultivating *raiyats* also in the same scale as that to landlords. If a cultivating *raiyat* pays Rs. 50 as cess in time, he will get the benefit of rebate. In the original Bill the rebate of 5 *per cent.* had been proposed to be allowed only to the holders or farmers of an estate directly held under the Government. That is, only the *zemindars* are to enjoy this concession. The Select Committee has modified the clause by allowing this privilege to all grades of persons paying cess with the restriction of Rs. 50, *i.e.*, the person who pays Rs. 50 and upwards in time will get the benefit. This was done only with the object of making the calculation easier. The Select Committee thought that if it be lowered much, there would be difficulty in the calculation and the work of the Collector would be increased enormously. I can assure the House that there was no other motive except this and we agreed for that reason. But having regard to the fact that this concession has been extended to the tenants as well, it will not be much appreciated by them unless the rate of rebate be increased. The tenants' share of cess is invariably very low, and if 5 *per cent.* rebate be granted, they will not be tempted to avail themselves of this opportunity. The

object of this clause will be frustrated. The main object is to encourage punctual payment by granting rebate. If the sum is not a much appreciable amount, naturally no one will be allured to get the full benefit.

Secondly, Sir, the Khan Bahadur tries to impress the House by some figures with the fact that if rebate be granted the district board will invariably suffer. He says that there is no necessity of giving any rebate even as a business problem, as the collection of the district board is very satisfactory. He points out that the normal income of the district boards is Rs. 81 lakhs, and the average collection is Rs. 80 lakhs, but I can show from facts and figures that the last year's demand of the district boards——

Khan Bahadur Maulvi AZIZUL HAQUE: For which year?

Raja Bahadur BHUPENDRA NARAYAN SINHA, of Nashipur: For 1931-32.

Khan Bahadur Maulvi AZIZUL HAQUE: That is the economic depression year.

Raja Bahadur BHUPENDRA NARAYAN SINHA, of Nashipur: You may make some allowance for the economic condition for that year. I can allow you 10 *per cent.* reduction for the economic situation, and still you cannot arrive at your figures which are all misleading. The current demand of the district boards for 1931-32 was Rs 92 lakhs, and the collection was Rs. 58 lakhs. So, you see there is a vast difference between the amount demanded and the amount collected. The district boards have the power to realise it by certificate procedure; even with that power they have collected only 50 to 60 *per cent.* and not 90 *per cent.* as pointed out by the Khan Bahadur. Moreover, if you look into the facts, you will find that the cost of realisation by certificate procedure has increased enormously. The number of certificates was 52,472 in 1931-32, in the year before it was 30,000; thus every year there is an enormous increase in the number of certificate cases and thereby the cost of the district board. From this one can easily understand how the district boards will be affected if rebate be granted.

As the manager of a big company, Mr. Thompson knows very well that a small rebate by way of concession is a great boon to business men. By giving a rebate he has found the payment of his Telephone Company more satisfactory. So, if some rebate be allowed, the collections of the district boards will be much improved and the district boards will be better off.

As regards bad debts, Mr. Sachse has already pointed to the number of bad debts in the court of wards' estates. The position is that when the first Bill was introduced, when the question of compensation came in, His Honour the Lieutenant Governor said "that he much doubted whether recoverable arrears in estates on the average were actually so much as 5 *per cent.*" At that time the bad debts were really less than 5 *per cent.* But now even in normal years, it has risen 20 to 25 *per cent.* and for this enormous increase in bad debts, the Bill is going to provide a rebate of 5 *per cent.* which I think should be at least increased to 12½ *per cent.*

There is one point I will touch before I resume my seat. The Khan Bahadur, quoting from the Council Proceedings, said that the Lieutenant Governor remarked by saying that the landlords have the duty towards their properties, namely, to make roads for the improvements of their "mehals." I admit, Sir, they had duties and for this account no compensation had been allowed. The landlord had that duty of the construction of roads and had other duties also, *viz.*, to maintain law and order, to administer justice, etc. But now all these duties have been transferred one after another and all the powers that would have been required to perform the duties were taken away by the promulgation of measure after measure. But still my friend thinks that the landlords are in duty bound for the construction of roads and thus no compensation is to be paid. He knows fully well of these facts; but only for the sake of putting his case against the landlords, he appears to be ignorant. Moreover, the time has changed. At that time the mass of the cultivators were tenants-at-will and now they have not only acquired the occupancy right, but in most cases they are treated as tenure-holders at a fixed rent.

With these few words, I strongly oppose the motion.

Dr. NARESH CHANDRA SEN GUPTA: The debate on this question, Sir, has been full of surprises. It has created strange alliances and strange shifting of allegiances, but the most surprising fact was the sight of Mr. Sachse budding forth as a *zemindar*, supporting a rebate of 5 *per cent.*, and as a new-born *zemindar* making a bid for the little crumb thrown out by Government to the landlords. Sir, I am all in favour of the principle of rebate, if it is properly understood. Reference has been made, for this demand of rebate, by Mr. Thompson's Company and its subscribers. Everyone knows that the little rebate given by his Company is not much of an inducement for prompt payment; except for the fear of the supply being cut off, it would not affect anybody at all. So far as I am concerned, I pay the bills of the Calcutta Electric Supply Corporation very promptly, but very often I make default in paying the Telephone Company and forego the rebate of a few annas that they give. The rebate in the

case of the Electric Supply Corporation is a substantial one. If you want to give a rebate, give a good rebate—give one that is going to be substantial. The next thing to note is that no commercial firm ever gives any rebate out of his cost price. If it wants Re. 1, it will not give a rebate out of that Re. 1. Neither Mr. Thompson's Company nor the Electric Supply Corporation charge their customers at the minimum amount at which the business can be run profitably and then give you a rebate out of that; if they really want Re. 1, they will charge you Re. 1-8 or Rs. 2 and give you a rebate of, say, 4 annas. (Loud laughter.) But in the case of this cess do we know how this is going to affect the requirements of the district boards? How are we to know that the district boards will have enough money to carry on their work after giving the rebate? On the contrary, there is considerable apprehension that if a revaluation takes place, the district boards will get less than they want. So that if you are charging something less than what is wanted, you cannot think of giving a rebate of 5 *per cent.*; that will be too generous. I am all in favour of rebate if it is carried out in a true commercial fashion. Let us charge the landlord 3 pice in the rupee and give him a rebate of 2 pice. (A VOICE: "Is that your idea of rebate?") Yes, that is the commercial principle of rebate. The rebate cannot come out of the cost. Well, Sir, much has been said about the grievances of the *zemindars*, but Mr. Sachse has picked out the cream of the grievances when he said that the greatest of them all is that there are so many bad debts. But if there are bad debts there are compensations also. If the landlord fails to realise the cess from the tenant, he adds it on to the rent and on arrears of rent and he always gets a liberal rate of interest which he can always recover by suit or by certificate procedure. The rate of 12½ *per cent. per annum* is a negligible rate of interest, not to speak of 25 *per cent.* damages! It may be considered to be a reasonable amount of compensation. But, Sir, it may be said that neither the principal nor the interest are recoverable in many cases. Who is to blame for that? Assuming that the landlords have invested their lands, or rather distributed their lands, in such a fashion that they cannot now realise their rents, they have only themselves to thank for it. As a matter of fact, it can be said that the *zemindars* who were invested with full proprietory rights in all their estates in 1793 have for all these years neglected to develop their property, to husband it properly and to use it in a proper manner—that is the reason why they find themselves in this mess. They have only tried to realise rents from their tenants; they have never cared for the welfare of their tenants. They have never cared to make proper distributions as between tenants; they have never cared to improve the economic condition of their tenants. Well, if the landlords were true businessmen they would not have made such bad investments of their land and thus would not have had any occasion to cry about bad debts.

Then, Sir, there is the ancient fallacy which was trotted out when the first Cess Act was introduced—and has ever since been re-echoed amongst the landlords—namely, that it put a great burden on the landlords. Well, that is a fallacy which has been exploded over and over again, but nevertheless it has always been made a grievance. Well, Sir, who are these *zemindars*? What were their functions in 1793, and before that? They were not the pensioners of the Government they are now. They were public officers with a number of public duties to perform. But since that time the East Indian Company took over scrap by scrap all the public functions of the *zemindars*, till they had nothing to do except enjoy the rents and pay their revenue, and even that they do not pay very well. If you are going to rake up old history it is not fair or proper to stop at the time when the Cess Act was passed. Go back still further. Look at the public functions which the *zemindars* used to perform when they got their new status but which were taken away from them one by one and then say whether the *zemindars* in realising cess for the Government are doing a tenth part of what they were bound to do for the Government in the days of the Company. As a matter of fact, there is no injustice or hardship in these days in imposing this so-called burdensome duty on the *zemindars* to collect cess. I do not think that it is a burdensome duty at all. It is the least little thing in the way of public service that they can do. Last of all, that question is altogether irrelevant because, according to the Raja Bahadur of Nashipur and according to everybody, this 5 *per cent.* rebate is not granted to the *zemindars* for their trouble or their risks in the collection of cess, but for punctual payment. As an incentive to punctual payment, this rebate is to be paid. As such incentive it has no value. As the Raja Bahadur of Nashipur says, an enormous amount of money remains as arrears on account of cesses. He has quoted the figures that a large amount of money remains unrealised. Why? Because it is difficult for the people to pay; perhaps it has been difficult for the people to pay all these years. Because the people have not the money to pay. Would the rebate suddenly swell the treasuries of the *zemindars* and straightaway enable them to pay all the dues of the district board as they become due? As a matter of fact, the *zemindar* has often to borrow for the payment of land revenue and cess. Would he borrow at a higher interest in order to make prompt payment just to earn the rebate? The existence of rebate of 5 *per cent.* is not going to help the district board to realise more of their arrears than they now do. It is a gratuitous advantage given to the landlords for nothing at all—a bonus which will be taken out of what has always been realised, but which will not bring in a penny of the arrears that now remain unpaid.

The Hon'ble Sir PROVASH CHUNDER MITTER: Although the question has been debated at some length, I am afraid the relevant

points that have emerged from this debate are not many. One of the important points that has been urged by some members of the Proja Party is that the district board is going to incur a loss of 5 *per cent.* Mr. Thompson echoed that opinion to some extent. I will show presently that the loss will not be anything like 5 *per cent.* Another point put forward by Khan Bahadur Azizul Haque, who always takes a delight in delving into old history, is that the promise made by the Lieutenant Governor of 1870 is not being fulfilled. Then Mr. Thompson and other speakers, I believe, said that it was going to be a reward to the landlords for doing their duty. Some of the speakers raised the question whether it is a remuneration—a remuneration which they say is well earned. Another point that was raised both by Khan Bahadur Azizul Haque and Mr. Thompson, as well as by other speakers, was that the *zemindars* got a reduction of land revenue as their remuneration. These, I think, are the main points with which the Council need concern itself. There are various subsidiary points, but regard being had to the fact that already two hours have elapsed over this motion, I do not propose to enter into those subsidiary points.

Before I enter into those points I would begin by explaining the position of Government in this matter. I may once more remind the House of the perfectly well-known and patent fact that Government is in the position of an arbitrator. This money is not going to the coffers of Government. Government's sole desire is to see that justice is done between the district board and the cess-payers and the different types of cess-payers. According to the *zemindars'* case they claim (I will not put forward all their claims) a part of the cost, and this Government thought worthy of consideration. According to the *zemindars'* case they said that they lost heavily in collection and bad debts. I won't examine the figures of the depression days, but we have examined the figures of the predepression days, and we have examined those figures from materials with which the Government are most familiar, namely, their own *khas mahals* as also the court of wards' estates which are administered by the Board of Revenue. From these figures we find that more than 15 *per cent.* remains uncollected; therefore the loss is at least 15 *per cent.* Mr. Thompson may shake his head, but if he will come to me I will show to him the figures——

Babu JITENDRALAL BANNERJEE: We are also interested.

The Hon'ble Sir PROVASH CHUNDER MITTER: I can explain that to everybody, but if I have to take the time of the Council by giving figures year after year, it will take some time. But to convince the Council I will take at random the figures for a very good year, the figures of a year when the collection was very good. I will quote the court of wards' figures for the year 1927-28. In that year, the current

demand was Rs. 58,97,000 and odd; arrears Rs. 79,88,000 and odd; and the total demand for current and arrear was Rs. 1,38,86,000. But the current collection of that year was Rs. 37,29,000, the arrear collection for that year was Rs. 22,58,000, the total collection was Rs. 59,87,000, so that if you take collection with reference to the current demand the collection was more than *cent.* per *cent.* The current demand was Rs. 58,98,000 and the actual collection within the year was Rs. 59,89,000, but the arrear was Rs. 78,88,000. An arrear means past bad collection and if we go back we find in the best years that if we take only current collection the collection is about *cent.* per *cent.* on the current demand, but taking arrear and current demand together the collection is often very much less than 80 *per cent.* Now about our *khas mahals*, I may tell you that the actual collections before depression was something like 85 *per cent.* Our *khas mahal* rentals are lower than any rentals in permanently-settled areas. We have the certificate procedure; we pay our *tahsildars* better wages than an ordinary *zemindar* does to his *gomastha*. But the total amount collected is always less than 15 *per cent.* I won't enter into the debatable point as to whether the *zemindars* are entitled to the cost of collection But without any doubt the amount actually collected is very much less in normal times than anything like 95 *per cent.* even where there is certificate procedure as in our *khas mahals* as also in our court of wards' estates. Although that is the position, we took into account certain other factors. We took into account the fact that collection of cess is a statutory duty cast on the *zemindars*, it is as much a statutory duty as payment of land revenue. My *zemindar* friends may argue, but we are perfectly on safe ground. (A VOICE: "When an Act of Legislature comes!") You may question the wisdom of that Act, but that Act is a part of the law of the land and is as much binding on us as the other Act, the Permanent Settlement Regulation. We also took into consideration the fact that the landlord has not to employ any additional staff. It may be that he will have to incur a little more expenditure here and there for taking copies and that kind of thing, but he has not to engage any additional staff. A staff which collects 50 rupees as rent can also collect 5 rupees more as cess. We also took into consideration many of those points which have been trotted forth with so much vigour and enthusiasm by Khan Bahadur Azizul Haque. We did take them into consideration. We did examine those and we also examined something which the Khan Bahadur never pointed out, although the Khan Bahadur will remember it when I recall that to him. What was the basic principle adopted by the framers of the Act of 1871? The basic principle was that both the *zemindars* and the tenure-holders have to pay cess on their estimated profit. Mr. Sachse touched on that point, but as this House will remember, that point was discussed when there was a motion before this House for referring the Bill to the Select Committee. Now I will read one passage only.

They said that their object was "to impose a tax upon property and that necessitates its being arranged so that the tax-payer may contribute according to the value of the property taxed and not according to their expectation of the benefits to be derived from that on which the tax was spent. Everybody, therefore, pays in the ratio of the profit he derives from the land." Supposing a tenure-holder collects Rs. 500 and his rent is Rs. 300, he pays on Rs. 500 *minus* Rs. 300, *i.e.*, on Rs. 200, while a *zemindar* whose total collection is Rs. 500 and his land revenue is Rs. 300 he also pays on Rs. 200. Is there any reason why there should be a differentiation between the *zemindar* and the tenure-holder? But it is a fact that the *zemindar's* position is much worse than that of the tenure-holder. If the *zemindar* does not pay his cess punctually, *i.e.*, *kist* by *kist*, distraint can be issued against him, whereas the tenure-holder has the advantage of the law's delay; the *zemindar* has not that advantage. Now touching incidentally on the question of *raiyat*, we have fixed in this Bill that the maximum which the *raiyat* will have to pay is not to be more than 1/5th of his gross assets. I say, this to those who were speaking about the gross assets of the *zemindars*, are you prepared to apply to *raiyat* the same principle even if we concede that the *raiyat* is a poor man and make him some allowance for his poverty? The average income of a landlord is about Rs. 8 a year. He is not a rich man. Don't have a false picture in your mind that the income of all the *zemindars* is Rs. 50,000 and more. Mr. Thompson ought to know as out of one lakh of revenue-paying estates certainly 30,000 come from the districts with which he is familiar and the neighbouring district of Chittagong and most of them pay far less than Rs. 500; most of them pay Rs. 100, Rs. 50, Re. 1 and Rs. 2 as land revenue and they are, generally speaking, poor. I am not, therefore, surprised that Haji Badi Chowdhury coming from Chittagong has claimed 12½ *per cent.* as rebate. Although these so-called friends of the *raiyats* desire to indulge in generosity at another's expense they will never delve deep into the true position. They are discussing this question as if it is a question between rich men and poor men. Anyone who is familiar with the revenue history of the province, anyone who is familiar with the settlement records of the province—and none is better familiar with them than Mr. Thompson and Khan Bahadur Abdul Momin—knows that not even 2 *per cent.* of the *zemindars* are well to do.

Mr. NARENDRA KUMAR BASU: On a point of order, Sir. Is the Hon'ble Member entitled to throw overboard the opinions of his non-official experts?

The Hon'ble Sir PROVASH CHUNDER MITTER: Out of one lakh of revenue-paying estates, the owners of only about 660 are voters of

the Legislative Assembly and we know their revenue and rent qualifications are such that the minimum of these 660 is quite limited. I would not have deviated from the main point but for the stress with which the point about the iniquity of not taxing on a higher basis a suppressed wealthy class.

Babu JITENDRALAL BANNERJEE: Why not increase the rebate and grant additional relief, seeing that they are so poor?

The Hon'ble Sir PROVASH CHUNDER MITTER: If you want to increase the rebate, as Mr. Bannerjee and Mr. Basu suggest, then you have to satisfy those who spoke on behalf of the district boards, but I am thankful to Mr. Bannerjee and Mr. Basu for that suggestion. Well, on *a priori* reasons the rebate may be 15 or even 20 *per cent.* that was a factor put up on one side. On the other side, as I have already indicated, it was a duty cast on the *zemindars*. The third factor is that the landlords have not to employ any special staff and there is also the factor of the income of the district boards, and Government came to the conclusion that the maximum which should be given to the *zemindars* was 5 *per cent.* and there is no reason why this should be increased. There is another point: the original total amount of the cess was 47 lakhs and it is now 92 lakhs and during the last 15 years—I will not go into the economic depression issue which is a false issue—it has increased considerably. Therefore, to collect 47 lakhs is one proposition and to collect 92 lakhs is another proposition. In the opinion of Government—and there are some members of Government who are anything but pro-landlord—and I may say for what it is worth that I am personally satisfied that 5 *per cent.* is a fair compromise. But if you want to pay more, you should satisfy those who have urged on behalf of the district boards. The demand for paying more rebate shows that we have not erred on the side of generosity. About the loss to the district boards I will say this: that we have made it a condition precedent that only those who will pay punctually will get the rebate. I do not for a moment claim that this condition of punctual payment will enable us to get in the whole of the demand, but I do think that it will help us in collecting more. This and other factors may help us in getting 2 or 3 *per cent.* more, or it may be less, but it is bound to give us some help. In this connection I will place certain figures. The total cess-paying estates in the province was about 70,000. Before the economic depression, and in normal times we had to issue as many as 60,000 certificates and each certificate means that either the certified judgment-debtor has to pay the costs, or if the full cost is not realised, under section 91 of the Cess Act the cost of recovery is paid by the district boards, and in certificates when you attach the movables, the cost is often very high, as compared with the demand and sometimes the cost of executing the certificate may be Rs. 20 or Rs. 30, whereas

the actual amount is Rs. 40 to Rs. 50. I have some figures before me which I gave in answer to a question in this House on Monday last. In Faridpur in the year 1930-31 the total number of certificates was 47,241; in 1931-32 it was 53,472, and in 1932-33 the total number came to 55,815. Out of these the last two years were certainly years of economic depression, but the first was the beginning of the economic depression and in the previous year the number was considerable; and the total number of cess-paying estates in Faridpur was only 6,405. These Faridpur figures will show what hardship is entailed in these proceedings and it shows incidentally what it costs to the district boards. Now I come to the collections of cess. I will give the figures for the predepression period of 1928-29: that year the current demand for cess was Rs. 84,53,741, the current collection was Rs. 69,37,000, but the arrears in that year was Rs. 16,03,104 That 16 lakhs was temporarily lost to the district board. Over and above that, there was a percentage of temporary loss on the current demand. Therefore, it is a mistake to proceed on the assumption that *cent. per cent.* is collected on the current demand. The net loss to the district boards will be considerably less than 5 *per cent.* Khan Bahadur Maulvi Azizul Haque has quoted some figures in his note of dissent. I know how these figures are calculated by these gentlemen. They only take the current demand, ignoring the arrears. Supposing, Sir, the current demand is Rs. 100 and the arrear is Rs. 20, that Rs. 20 is a loss to the district board, at any rate a temporary loss for a portion and a complete loss for another portion. Therefore, if this rebate helps in the collection of the cess, that will go a long way towards improving the condition of actual collection for the district board. The district boards will certainly get a good portion of that 5 *per cent.* But justice demands that something should be given to the landlords. Even if the district boards lose for the sake of justice that loss has to be borne. If you look only to the interest of the landlords, you will realise that they should get very much more than 5 *per cent.* Therefore, I submit that 5 *per cent.* is a very fair compromise.

Then, Sir, some of the landlords, Mr. Sarat Kumar Roy, for example, said that they claimed this as a sort of remuneration. Some, speaking on behalf of the tenants, said that they are not entitled to anything. I say both parties are wrong. It is not a remuneration: it is a part of the loss which we are willing to recoup as an act of justice and fair play. It is not remuneration and was never intended to be such For the losses suffered by them (A VOICE: "How do they lose?"). Well, even in court of wards' estates and in *khas mahals* our actual collections show that bad collections amount to more than 15 per cent. (KHAN BAHADUR MAULVI AZIZUL HAQUE: "What about illegal collections?"). It is very inconvenient to take note of these interjections, but since the Khan Bahadur has made that interjection, I say that I did not expect from him such an irrelevant interjection in order that the attention

of the House would be deviated from the real point at issue. Supposing there is an illegal collection; is it due to the Cess Act? None knows better than the Khan Bahadur that we are not concerned with illegal collections. If there be any illegal collection the Khan Bahadur and other friends of the tenants should always be in position to help the *raiyat* by taking action under the ordinary procedure of the law, provided they are really anxious to take the trouble to help the *raiyats*. As I said, we are not concerned with any illegal exactions for assessment of cess; we are concerned with what is provided in the law, and both the landlord and the tenant can only proceed on what is provided in the law. It is no use indulging in such irrelevant interjections. Although my last words were somewhat heated, I claim that the heat was not due to any fault of mine: But I will make this appeal to this Council. During the last two days there was a good deal of give and take on all sides. Is it not desirable, Sir, in the wider interest of the province, in the interest of the tenant and the landlord alike, that those who are really the friends of the tenants, those who being good landlords ought to claim to be good friends of the tenants, should proceed with this clause in that spirit of amicable give and take? I do not for a moment say that the landlords are necessarily right or the tenants are necessarily wrong, nor do I say that the tenants are necessarily right and the landlords are necessarily wrong. You can introduce acrimony, you can introduce heat, but from what I know of the representatives of the tenants I can say with confidence that my appeal will fall on no barren ground. [BABU JITENDRALAL BANNERJEE: "What is give an take? You give and they (*zamindars*) take"] I know Mr. Bannerjee cannot wipe away his past 16 years. Please do not misunderstand me. I am not going to enter into another irrelevant point. If we were to give them to the extent which we were convinced to be fair and which we were advised by people who ought to know, then it would have come to more than 5 *per cent.*

I have to reply to one or two other points. Mr. Thompson referred to the fact that industrial interests like mines have been neglected. As to that I can only say that the main scope of this amendment lies in amending Chapter II. No doubt, clause 6 deals with everything. The question of the mine-owners, as to whether they are entitled to any rebate or not, affects only one district board, I mean the district board of Burdwan. There the position as regards assessment is different from the assessment in Chapter II. I cannot say anything definitely about this, because this point was never raised before, and it was never placed before Government. In one sense the mine-owners have far greater risks than the landlords. The landlords' risk lies in collection only, but the mine-owners' lies in the risks of a business organisation, bad market and other things. But if Mr. Thompson or anyone on behalf of the mining interest desires to bring forward a question of rebate to mine-owners, all I can say is that we are prepared to consider such

representation. What the decision should be I should not anticipate. We shall have to consult the district board concerned. The charge that was levelled against this poor Provincial Government that we are unsympathetic towards industrial interests is not a well-justified charge, as we do not deal with high finance, income-tax or cognate subjects. Whether the Government of India are dealing fairly with matters concerning income-tax, I am sure the industrialists and the commercial magnets of Calcutta and other parts of India are strong enough to deal with them, but we have no special concern with these problems.

Another factor that has been mentioned by Khan Bahadur Maulvi Azizul Haque is that landlords make a large amount of profit from rent-free cess collection. The total demand of rent-free cess collection is Rs. 1 lakh for the whole province and what is 1 lakh in a total cess demand of 92 lakhs? The bulk of it comes from a few districts in Western Bengal; most districts in Eastern Bengal have very little of rent-free cess. As regards the alleged profit of 50 per cent. the landlords' representatives often worry me saying: "We do not want 50 *per cent.* profit, so take it back, but relieve us from this losing task." Khan Bahadur Maulvi Azizul Haque will, perhaps, recall when I remind him that previously the Collectors used to collect it but the loss and difficulty was very great and this experiment was tried. However, it has nothing to do with the main thing It does not touch the *zemindars* as a class—it does not materially touch the *zemindars* in 20 or 21 districts out of 25. In the remaining 4 or 5 districts only a very small portion of the total liability of the *zemindars* is touched.

Another point that was mentioned by some of the speakers was that even in good years, say in June *last*, the *zemindars* cannot collect from tenants. Even in September *last*, they cannot collect the full amount in West Bengal, but those are minor points, and I need not take them up specially, because we are not proceeding on the basis that the *zemindars* will get themselves recouped to the extent of the full loss in collection. I, therefore, appeal to the House to accept this as a fair compromise. It may be that the *zemindars'* representatives think that 5 *per cent.* is too little, it may be that some neutral gentlemen, like my esteemed friend Mr. Narendra Kumar Basu, in the bounty of their generosity think that the 5 *per cent.* is too little for the *zemindars*, it may be that some hon'ble members, like my friend Dr. Naresh Chandra Sen-Gupta, have a picture of their own of every *zemindar* being a multi-millionaire and therefore it should, against the spirit of aristocracy, accept it. But that is not the real issue. The real issue is if 5 *per cent.* is a fair compromise and if 5 *per cent.* represents a fair compromise and recoups a portion of the loss it should be accepted. I therefore commend the compromise to the acceptance of the House.

The motion of Maulvi Abdul Hamid Shah was then put and lost.

The motion of Maulvi Syed Majid Baksh was put and a division taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Ali, Maulvi Syed Raushar.
Ashworth, Mr. C. G.
Baksh, Maulvi Syed Majid.
Banerjee, Babu Jitendralal.
Basu, Mr. Narendra Kumar.
Birkmyre, Mr. H
Chaudhuri, Khan Bahadur Maulvi Allimazzaman.
Chaudhury, Maulvi Nural Absar.
Fazlullah, Maulvi Mahammad.
Gupta, Mr. J. N.
Hakim, Maulvi Abdul.
Hoque, Khan Bahadur Maulvi Azizul.
Hoque, Kazi Emdadul.
Hossain, Nawab Musharraf, Khan Bahadur.
Hossain, Maulvi Muhammad.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Tamizuddin.
Miller, Mr. C. C.
Momin, Khan Bahadur Mahammad Abdul.
Qansem, Maulvi Abul.
Raheem, Mr. A.
Ray, Babu Amulyadhan.
Rast, Babu Hasesi.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.
Solaiman, Maulvi Muhammad.
Thompson, Mr. W. H.

NOES.

Afzal, Nawabzada Khwaja Mahammad, Khan Bahadur.
Ali, Mr. Altaf.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Barma, Rai Sahib Panchanan.
Bose, Mr. S. M.
Bottomley, Mr. J. M.
Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman.
Chaudhuri, Dr. Jogendra Chandra.
Chaudhuri, Babu Kishori Mohan.
Chowdhury, Haji Badi Ahmed.
Cohen, Mr. D. J.
Das, Rai Bahadur Kamini Kumar.
Das, Rai Bahadur Satyendra Kumar.
Dutt, Rai Bahadur Dr. Haridhan.
Edgley, Mr. N. G. A.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Ghuznavi, the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim, of Dildoar.
Gladding, Mr. D.
Goenka, Rai Bahadur Sir Badridas.
Guha, Babu Protulla Kumar.
Guha, Mr. P. R.
Gupta, Rai Bahadur Mahendra Nath.
Hogg, Mr. G. P.
Hooper, Mr. G. G.
Hussain, Maulvi Latafat.
Khan, Mr. Razaur Rahman.
Kindersley, Mr. J. B.
Lam, Mr. Surendra Nath.
Maiti, Mr. R.
Martin, Mr. G. M.
Mollicchi, Mr. E. T.
Mitter, the Hon'ble Sir Provash Chunder.
Mitter, Mr. S. C.
Mittra, Babu Sarat Chandra.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nag, Reverend B. A.
Nag, Babu Deb Lal.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Pani, Sir Hari Sanker.
Poddar, Seth Hanuman Prasad.
Rai Mahasai, Manindra Deb.
Ray, Babu Khetter Mohan.
Ray, Babu Nagendra Narayan.
Ray, Mr. Shanti Shekhareswar.
Ray Chowdhury, Mr. K. C.
Reid, the Hon'ble Mr. R. N.
Ray, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Babu Haribansa.
Ray, Babu Jitendra Nath.
Roy, Mr. Saileswar Singh.
Roy, Mr. Sarat Kumar.
Ray, Mr. S. N.
Roy Chaudhuri, Babu Nem Chandra.
Sachse, Mr. F. A.
Sahana, Babu Satya Kinkar.
Sarkar, Rai Bahadur Rebati Mohan.
Sen, Rai Sahib Akshoy Kumar.
Sen, Mr. R. R.
Sen, Rai Bahadur Jogesh Chandra.
Singh, Srijut Taj Bahadur.
Singh, Mr. Arun Chandra.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.
Townend, Mr. H. P. V.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

The ayes being 29 and the noes 67, the amendment was lost.

(The Council was then adjourned for 15 minutes for prayer.)

(After adjournment.)

Babu KISHORI MOHAN CHAUDHURI: I beg to move that in clause 6, in proposed section 45 (*1*), in line 1, for the words "five *per centum*" the words "six and one-fourth *per centum*" be substituted.

The Hon'ble Sir PROVASH CHUNDER MITTER: I beg to oppose this for the reasons already given.

The motion was put and lost.

The Hon'ble Sir PROVASH CHUNDER MITTER: I beg to move the amendment which stands in my name which runs as follows:—

That in clause 6, in proviso (*a*) to proposed section 45 (*1*), in line 1, the words "at one time" be omitted.

We want to omit the words "at one time." He may pay in full, but need not do so at one time.

The motion was put and agreed to.

Babu KISHORI MOHAN CHAUDHURI: Sir, I beg to move that in clause 6, in proviso (*a*) to the proposed section 45 (*1*), the word "and" at the end be omitted, and proviso (*b*) to the said proposed section 45 (*1*), be omitted.

My reason is this: that when a rebate is granted it should benefit all. The principle of rebate has been introduced for ensuring punctual payment and also for compensating the realisation cost and so forth. It has been introduced in the Bill in the interests of *zemindars* mainly, because if we limit it to Rs. 50 it will not benefit the poorer *raiyats*. And I, therefore, appeal to Government that this benefit should be granted to all. I do not see any reason why whatever concession is granted to the *zemindars*, it should not be extended to all.

Sir, I was surprised at the attitude of the Praja Party in not agreeing to this concession being granted to the *raiyats*. I expected that the *raiyats* would have their sympathy and that they would not refuse to extend this concession to the poor *raiyats*, in the same manner as is to be done in the case of the landlords. I was further surprised to hear in this House to-day that the *zemindars* are doing immense injury to the *raiyats*. As a matter of fact, it is the *zemindars* who have given us education, who have given us medical aid, who have given us colleges and female education, and so forth. As a sort of counter-argument I can point out to the example set by Mr. Sarat Kumar Roy who has spent over a lakh of rupees for the sake of the Varendra Research Society in the Rajshahi district. I hope the Zemindars' Party will not mind this small concession to the *raiyats*, and I further think that the champions of the *raiyats* will think it worth while to support it.

Sir, with these few words I commend my amendment to the acceptance of the House.

Maulvi SYED MAJID BAKSH: Sir, I support the motion moved by Babu Kishori Mohan Chaudhuri, because it will be a test of the sincerity of the *zemindars* who, in season and out of season, proclaim their interest in the benefit of their tenants. As I have already stated in my previous speech, this section takes away all the benefits that might have accrued to the poor tenants. The limit of Rs. 50 is a very large amount indeed for poor tenants, and will leave out the very poor tenants entirely. The *zemindars* who express milk-and-honey sentiments on behalf of their tenants can prove their sincerity by supporting this amendment. It will also be a test of sincerity of the hon'ble mover and his supporters that they really have the interests of the poorer tenants at heart.

The Hon'ble Sir PROVASH CHUNDER MITTER: I beg to oppose this amendment. I am not surprised that this has come from two members of this House, neither of whom were members of the Select Committee. I would remind the House that the original proposal which went before the Select Committee was that a rebate was to be granted to the holders or farmers of an estate. There are two ideas in this. One was that holders or farmers of estates have to pay in full and punctually at stated times. We were providing for them only. Others get 3 years' time or more due to loss delays. The second idea was that those who had to collect from many had risks of collection. Those who answered to both these ideas were given a rebate The Select Committee in considering the Bill increased this advantage to those tenants who had to pay Rs. 50. Rupees 50 in many cases would mean a collection of about Rs. 1,600. If you go beyond that, you would negative every reason put forward, namely, loss in the collections and collections from many. It is not a question of doing justice between landlord and tenant; it is a question of doing justice to all those who have to collect from many. This thing was discussed very elaborately in Select Committee. I therefore beg to oppose it.

The motion was then put. A division was called with the following result:—

AYES.

Ali, Maulvi Nagen.
Ali, Maulvi Syed Nasiber.
Bakh, Maulvi Syed Majid.
Bai, Rai Sahib Sarat Chandra.
Barma, Rai Sahib Panchanan.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Babu Kishori Mohan.
Chowdhury, Haji Badi Ahmed.
Chowdhury, Maulvi Nurul Abcar.
Fazlullah, Maulvi Muhammad.
Hakim, Maulvi Abdul.
Haque, Khan Bahadur Maulvi Azizul.
Haque, Kazi Emdadul.
Hossain, Nawab Musharruf, Khan Bahadur.
Hossain, Maulvi Muhammad.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Tamizuddin.
Maiti, Mr. R.
Momin, Khan Bahadur Muhammad Abdul.
Quasem, Maulvi Abul.
Ray, Babu Amulyadhan.
Ray, Babu Nagendra Narayan.
Ray, Mr. Shanti Shekhareswar.
Rout, Babu Nanai.
Sarkar, Rai Bahadur Sobati Mohan.
Shah, Maulvi Abdul Hamid.

NOES.

Ahsan, Nawabzada Khwaja Muhammad, Khan Bahadur.
Bose, Mr. S. M.
Bythewley, Mr. J. M.
Chaudhuri, Khan Bahadur Maulvi Nuzzar Rahman.
Cohen, Mr. D. J.
Das, Rai Bahadur Kamini Kumar.
Das, Rai Bahadur Satyendra Kumar.
Edgley, Mr. R. G. A.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Ghuznavi, the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim, of Dildaar.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Guha, Babu Prefulla Kumar.
Guha, Mr. P. R.
Gupta, Rai Bahadur Mahendra Nath.
Hogg, Mr. G. P.
Hooper, Mr. G. G.
Hussain, Maulvi Latafat.
Khan, Mr. Nazaar Rahman.
Kindersley, Mr. J. G.
Law, Mr. Surendra Nath.
Martin, Mr. O. M.
Mitter, the Hon'ble Sir Provash Chunder.
Mitter, Mr. S. C.
Mittra, Raba Sarat Chandra.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nag, Reverend R. A.
Nag, Baba Suk Lal.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Paul, Sir Hari Sankar.
Rahoom, Mr. A.
Rai Mohanai, Manindra Deb.
Ray, Raba Khetter Mohan.
Ray Chowdhury, Mr. K. C.
Reid, the Hon'ble Mr. R. N.
Roy, the Hon'ble Sir Rijay Prasad Singh.
Roy, Raba Jitendra Nath.
Roy, Mr. Saileswar Singh.
Roy, Mr. Sarat Kumar.
Roy, Mr. S. N.
Roy Choudhuri, Raba Hem Chandra.
Sachse, Mr. F. A.
Sahana, Saha Satya Kinkar.
Sen, Rai Sahib Akshoy Kumar.
Sen, Mr. R. R.
Sen, Rai Bahadur Jogesh Chandra.
Singh, Srijut Taj Bahadur.
Sinha, Raja Bahadur Bhupendra Narayan, of Rashipur.
Townend, Mr. H. P. V.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

The ayes being 26 and the noes 52, the motion was lost.

The Hon'ble Sir PROVASH CHUNDER MITTER: I beg to move that in clause 6 at the end of sub-section (*1*) of proposed section 45 the following explanation be inserted, namely:—

"*Explanation.*—The word 'estate' as used in this sub-section means, in the case of a payment made in respect of the share or portion of an estate for which a separate account referred to in section 44 has been opened, the share or portion in respect of which the payment is made."

This is a formal thing. A question of interpretation was raised and in order to make that clear we want to put this explanation.

The motion was put and agreed to.

Maulvi SYED MAJID BAKSH: I beg to move that in clause 6, in proposed section 45 (*2*), in line 7, for the words "six years" the words "four years" be substituted.

I gave all my arguments the other day when I moved similar motion under clause 11, but the objection of the Hon'ble Member was that it did not properly come under section 11 because the section referred to rent-free lands. I think he will agree with me that it will create anomalies and difficulties, as has been amply pointed out in the course

of other debates in this House. *Zemindars* know fully well that cess is always realised along with rent. There is no case where cess is not paid along with rent. When rent is realised, cess is also realised. If rent is in arrear, a suit is instituted and a suit for cess along with it. Now the period of limitation for rent is 4 years and at the end of these 4 years a suit is instituted. If this six years' limitation is kept, the result would be that the two years' outstanding cess will be left out. At the end of next 4 years the landlord will have to institute a separate suit for both rent and cess and of course at the end of the third period, there will be a limitation suit. In order to facilitate realisation of cess and not to compel the *zemindars*, in spite of the profit that they will make from the rebate, to incur the risk and expenditure of instituting a suit for cess unconnected with the rent, I have introduced this amendment. I hope my *zemindar* friends will see to this and support it and not blindly think that whatever the Government is doing for them is very well and they must go to the Government lobby.

The Hon'ble Sir PROVASH CHUNDER MITTER: I beg to oppose this formally. There is no anomaly as Mr. Majid Baksh seems to think. He says 4 years is the period of limitation for rent suits, but it is 3 years 11 months. Perhaps that is a slip of his tongue. The main thing that may happen is that when rent is barred more time will be left for payment of cess; cess won't be barred for another 2 years and 1 month. We introduced it mainly for the benefit of the *khas mahal* tenants. We want to give a little more time to the *khas mahal* tenants when it is considered necessary to do so. When rent is barred, the cess for the earlier period remains open. There is no anomaly. I therefore oppose it.

The motion was put and lost.

The Hon'ble Sir PROVASH CHUNDER MITTER: I beg to move that in clause 6, after proposed section 45, the following sub-section be added, namely :—

"(3) The provision of sub-section (1) shall not apply to any amount payable as road cess and public works cess in respect of any lands referred to in section 33 or sub-section (4) of section 107D."

This also is more or less a formal amendment to elucidate a point provided in the amendment itself. I formally move it.

The motion was put and agreed to.

Mr. PRESIDENT: The question before the House is that clause 6 as amended stand part of the Bill.

The motion was put and agreed to.

Mr. PRESIDENT: The question before the House is that Preamble stand part of the Bill.

The motion was put and agreed to.

The Hon'ble Sir PROVASH CHUNDER MITTER: I beg to move that the Bill as settled in Council be passed.

In moving this I only desire to say one word. I desire to convey my gratitude to those members of this House who were members of the Conference and of the Select Committee and also to all members of this House who have tried their best to improve the Bill and finally I convey my thanks to you, Sir.

Maulvi TAMIZUDDIN KHAN: Sir, on the eve of the Bengal Cess Amendment Bill being passed into law, I congratulate the *zemindar* members of the House on their achievement. The *zemindars* of Bengal were labouring under a serious disadvantage for the last 50 years. The framers of the Cess Act of 1880 which is just going to be replaced in main by a new law did them a great injustice. They seemed to have overlooked the fact that the *zemindars* are a privileged class in Bengal, for otherwise they would not have imposed upon them the burden of paying cess to the same extent as cultivating *raiyats*. Another awkward position that the framers of the cess law created was, that under it, the cess burden on the cultivating *raiyat* could not be increased without a corresponding increase of the burden on the *zemindars*. The unfortunate result of a law like this has been that during the last half a century the cess payable by the cultivating *raiyats* who have not sublet their holdings could not be enhanced except where there was an increment of rent, for in the event of an increase in their cess a corresponding increase in the case of the *zemindars* could not be avoided. Section 41 of the Act stood as a solid rock against such attack on the cultivating *raiyat*. The cultivating *raiyat* being thus protected by an unjust law, the attack during the last 50 years had naturally to be directed against some other fellows, namely, the under-*raiyats* and those *raiyats* who committed the crime of subletting their holdings to these under-*raiyats*. Fortunately, the attack here has been phenominally successful. Thanks to the ingenious brain of the administrators of the Cess Act and the abject supineness of the victims, the cess demand of the province has gone up from 45 lakhs to 92 lakhs of rupees during the past half a century entirely at the expense of these classes of tenants. Things were going on fairly well, but since a few years ago some naughty boys have been audaciously creating noise with an incessant cry that injustice is being done to these under-*raiyats* and their *raiyat* landlords who have been given the grand eloquent name of cess tenure-holders. Something, therefore, must be done. The bulwark that has hitherto protected the

cultivating *raiyat* is to be demolished and it must be a matter of gratification to the *zemindars* of Bengal that the work of demolition will be complete within a few minutes. The dead-weight hitherto hanging by the neck of *zemindars* is at length going to be removed. The cultivating *raiyat* can now be successfully attacked without touching the *zemindar*. The very basis of assessment is now changed. It is now the acreage rate with which the *zemindars* in general, except a few who hold *khas* lands, will have nothing to do. Increase the acreage rate however much you like, the *zemindar* stands where he is. Nor is the emancipation of the *zemindar* from the clutches of the present cess law the only achievement of this legislation. It is equitable to look to all parties concerned. Look at the injustice of the present arrangement. The higher the rate of rent of a tenant the greater is the cess he has to pay. That must be changed now. In justice the higher the rate of rent, the lower should be the cess to be paid. If your rent is high, because your land is good, you should be the prize boy of the new cess law and must pay a correspondingly smaller cess. Similarly, the lower the rate of your rent, because your land is worthless, you must submit to the penalty of a higher cess. We can deny that this is justice pure and simple? The Bengal Tenancy Act lays down the circumstances under which rent can be enhanced. If the productive powers of your land increase or the prices of food crops go up, your rent can be enhanced because in these cases your land is capable of bearing a higher rent. Is not that reason enough why you should in such a case pay a lower cess? Similarly, if your land deteriorates or prices go down, your rent may be reduced because your land is incapable of bearing the existing rent. Is not this again reason enough why you must pay a higher cess? Never imagine that anything but justice will be done to you.

One sentence more in eulogy of our performance and I have finished. Legislation hitherto seems to have been based upon a wrong maxim. It is the greatest good to the greatest number they say. How foolish the conception is? If not foolish it is hypocrisy pure and simple. The maxim should be "the greatest good to the lowest number" or its counterpart "the greatest harm to the greatest number." The cess law that is being ushered in is being based on this golden maxim. It will do the maximum good to the lowest number, namely, the *zemindars*, cess tenure-holders and under-*raiyats* or the greatest harm to the largest number, namely, occupancy *raiyats* and *raiyats* at fixed rates. Long live the Bengal Cess Amendment Act!

My congratulations will be incomplete unless I refer to the most glittering prize that my *zemindar* friends have earned to-day, namely, their hard-earned rebate. May they live long to enjoy this windfall!

The attempt to confer the same right on all classes of tenants has rightly been foiled. Let me end with a query whether the representatives of the tenants are still in love with this measure.

The Hon'ble Sir PROVASH CHUNDER MITTER: Sir, I only want to say a few words in reply. I will not enter into the points raised by Maulvi Tamizuddin Khan. I know he has an obsession as regards certain points in this Bill. I will simply conclude by saying this: that, barring clause 6, on all other points if to any one I and the Government and this House owe any debt of gratitude they are Mr. Thompson and Khan Bahadur Maulvi Abdul Momin. About clause 6 they are opposed to us, but nobody can accuse these two gentlemen of being unfriendly to the tenants and that ought to satisfy Maulvi Tamizuddin Khan that the main provisions of the Bill are certainly not anti-tenant. About the main clause and the amendments under section 107 it is neither a *zemindars'* Bill nor a tenants' Bill; it is a good and just Bill. These two had no doubt their own objections to clause 6, but on the other points they were wholly well put. I shall not detain you any longer.

The motion that the Bill, as settled in Council, be passed was put and agreed to.

Adjournment.

The Council was then adjourned till 3 p.m. on Wednesday, the 31st January, 1934, at the Council House, Calcutta.

B. G. Press—1933-34—1144SA—600.

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B. G. Press—1934-35—5754A—350.